

M451RAY1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

20 Cr. 110 (LJL)

6 LAWRENCE RAY,

7 Defendant.

Trial

8 -----x
9 New York, N.Y.
10 April 5, 2022
11 8:59 a.m.

12 Before:

13 HON. LEWIS J. LIMAN,

District Judge
and a jury

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
17 Southern District of New York

DANIELLE R. SASSOON

MOLLIE BRACEWELL

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18 Assistant United States Attorneys

19 FEDERAL DEFENDERS OF NEW YORK, INC.

20 Attorneys for Defendant

MARNE L. LENOX

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23 Also Present: Kelly Maguire, FBI

24 Claudia Hernandez, Paralegal-USAO

25 Larissa Archondo, Paralegal-FDNY

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Summation - Ms. Lenox

1 (Trial resumed; jury not present)

2 THE COURT: Anything to raise before we bring the jury
3 in?

4 MS. SASSOON: Just quickly, I sent Mr. Fishman my
5 negative PCR. Perhaps for the jurors, before I begin my
6 summation, if the Court could let them know I followed protocol
7 and had a negative test.

8 THE COURT: I will let them know that. Ms. Sassoon,
9 how long do you expect your rebuttal summation to be?

10 MS. SASSOON: Roughly 30 minutes, but I haven't heard
11 the rest of the defense summation.

12 THE COURT: Okay. Let's bring the jury in.

13 (Jury present)

14 THE COURT: Be seated.

15 Good morning, members of the jury. We'll now continue
16 with the summation by the defense.

17 Ms. Lenox.

18 MS. LENOX: Yesterday we ended off talking about the
19 people who the government considers conspirators in this case.
20 We're going to shift gears this morning and talk to you about
21 some of the people that the government claims are victims.

22 The witnesses in this case, they weren't vulnerable
23 individuals. They were well-educated adults, with supportive
24 parents, who graduated from elite, private high schools, before
25 moving away to begin college.

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1 Claudia testified she grew up in Pasadena, California.
2 She owned a horse. She attended private high school.

3 Santos Rosario attended Horace Mann, a prestigious
4 private school in New York City.

5 And Felicia Rosario graduated from Harvard University
6 and Columbia Medical School.

7 When they met Larry, with the exception of Felicia,
8 who was 29 years old and a medical resident at the time, they
9 were attending prestigious universities; they were
10 well-resourced people, with agency. Claudia, Yalitza, Santos,
11 Isabella, Dan, they were creative individuals who expressed
12 interest in conversation about life's big questions. They
13 weren't children. They were high-achieving, educated,
14 intelligent adults.

15 The government wants you to view its case through the
16 lens of Dawn Hughes. They paid Dr. Hughes close to \$10,000 to
17 feed you their theory of the case. But her testimony was a bit
18 too weak. Dawn Hughes talked about isolation. She said
19 isolation is very important. It's a way of creating two
20 things-dependence and eliminating outside forces. Larry didn't
21 isolate people. He didn't force anyone to come to his
22 apartment, and he didn't force anyone to stay. People came and
23 left fluidly over the course of years. Larry's apartment
24 became a crash pad for college students attending school
25 nearby.

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1 Let's talk about Claudia Drury. During the summer of
2 2011, Claudia's parents lived in New York City. They lived
3 seven blocks away from Larry. She could have lived with them.
4 She chose not to. And after that summer, Claudia traveled
5 abroad. She studied abroad at Oxford for her entire junior
6 year. Larry encouraged Claudia to go. And when Claudia told
7 him that she wanted to spend her six weeks' spring break at
8 Oxford, he encouraged that too. He never went to visit her.
9 He never suggest that she return to New York to see him. She
10 was living on her own. She was in another country, in a dorm,
11 making friends, rowing on the crew team.

12 And when Claudia returned from her study abroad, when
13 she was hospitalized in the fall of 2012, Larry encouraged her
14 to move home to live with her dad. And at the hospital,
15 Claudia was provided resources—resources for support
16 independent of Larry.

17 In the summer of 2013, after Claudia spent some time
18 in Pinehurst, she left Pinehurst and spent the rest of her
19 summer in New York, with her parents. Larry wasn't there. And
20 after her hospitalization in 2014, Claudia moved in with her
21 mother. She was attending courses at Columbia University where
22 she had an entire network of support—new faculty, new students,
23 friends, resources. Larry didn't discourage any of that.

24 When Claudia's mother moved out of state, Claudia
25 could have gone with her. She didn't. She chose to remain in

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1 New York, even though she couldn't afford rent. But she didn't
2 live with Larry; she lived on her own.

3 Dan Levin also wasn't isolated. Now we heard very
4 little testimony about Dan throughout trial, but here's what we
5 know: Dan spent time in Larry's apartment in the summer of
6 2011; Dan spent his junior year studying abroad in England,
7 like Claudia; and there is no evidence that Dan was involved in
8 Larry's life or the lives of any of the others after 2012.

9 Safe to assume that around that time Dan lost contact with
10 Larry and the others. But despite having drifted away from
11 Larry more than a decade ago, you heard evidence that Dan Levin
12 published a book about his time with Larry, ten years later,
13 right in time for Larry's trial.

14 The Rosario siblings, they also weren't isolated.
15 While Santos was dating Talia, Larry spent time at the
16 Rosarios' home. He shared meals with their parents. And Larry
17 did the same when he started dating Felicia and she moved back
18 to New York in 2012. After her mother picked her up from the
19 airport and she moved in with her family, Larry would go there
20 and spend time with them. And when Felicia moved into Larry's
21 apartment, they welcomed Maritza, her mother, into their home.

22 Santos told you that during the time that he knew
23 Larry, he never actually lived with Larry. He would spend time
24 at Larry's apartment, he would sleep there some nights, but
25 primarily Santos lived with his parents, or at Sarah Lawrence

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1 College.

2 And in 2012, Santos traveled abroad. He went to the
3 Dominican Republic to visit his family with his father. Larry
4 didn't intervene. And when Santos finally decided to spend
5 time away from Larry, Larry didn't go after him. He didn't
6 chase him down and insist that Santos return. Santos spent
7 four entire years not speaking to Larry. He secured a job; he
8 lived on his own in his own apartment; he formed a new group of
9 friends.

10 Yalitza Rosario similarly drifted into Larry's life
11 during the period that she knew him. After Santos introduced
12 Yalitza to Larry, Yalitza spent time in Larry's apartment with
13 her brother and his friends. And she told you she enjoyed her
14 time there.

15 In the fall of 2013, when Felicia and Larry were in
16 Pinehurst, Felicia was unwell. She told you that herself. And
17 you've seen evidence and videos that she was unwell. And Larry
18 was concerned. So he reached out to Yalitza, her sister, and
19 told her that Felicia could benefit from her support. This
20 wasn't the work of a man trying to break up a family. It's the
21 effort of an individual trying to provide support for a person
22 that he loved. And Yalitza went to Pinehurst to support her
23 sister. Now the government argues that going to support
24 Felicia was a manipulative act on Larry's part, that when he
25 asked Felicia's sister to come and spend time with her, he was

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1 manipulating her and he was preventing her from beginning a job
2 she had not yet started at a bakery. But they also argue that
3 Larry was the cause of sibling rivalry, that Larry forced the
4 Rosario siblings against each other. Anything Larry does, the
5 government interprets as manipulative.

6 Yalitza said she couldn't leave Pinehurst, but her
7 actions belie her words. Yalitza did leave Pinehurst. She
8 traveled back to New York on her own. And she planned it ahead
9 of time. She called her mom, she asked her mom for money, she
10 bought a train ticket, and she took the train to New York. Her
11 mom picked her up there. And the following year, when Yalitza
12 was hospitalized, her mother was at her bedside every day.

13 For the years that both Yalitza and Santos were not in
14 contact with Larry, they also were not in contact with their
15 parents. Santos and Yalitza could have connected with their
16 parents. They chose not to.

17 Larry didn't psychologically isolate the Rosario
18 siblings either. He didn't plant the notion that Maritza and
19 Santos Sr. were bad people. That came from the Rosario
20 siblings themselves. When they first met Larry, each of the
21 Rosario siblings told him about the anger that they held toward
22 their parents. Santos Sr. had affairs. He had children with
23 women who were not his wife. Santos Jr. didn't know about his
24 half-siblings until they moved into his home when he was in
25 high school. Santos didn't interact much with his children

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1 when they were growing up. Their parents were largely absent
2 from their childhoods. Yalitza testified that when she was
3 younger, her father drove drunk while she was in the car. And
4 at one time Santos believed that his mother only paid attention
5 to him when he was sick. He felt angry and unsupported.

6 And when Santos was in high school, before he met
7 Larry, the family turmoil led him to try to take his life.

8 Shortly after that, in 2008, Felicia was also
9 hospitalized for suicidal thoughts, also in connection with her
10 family. And in 2008, she wrote about this in her journal. She
11 said, "I'm really tired of it all. I'm angry at my parents for
12 not taking more emotional responsibility. I have enough to
13 deal with. I'm liking a fucking single parent. But I am so
14 used to that that I can't extricate myself from the situation
15 easily."

16 She also wrote, "I still feel bad for my family. But
17 there is only so much I can do when I feel totally drained and
18 lifeless after being with them. They make me so sad."

19 This was in 2008, before any of the Rosario siblings
20 had met Larry.

21 And Yalitza testified that around the time that she
22 met Larry, her relationship with her parents was strained. She
23 said they were having trouble communicating. And in 2010,
24 before she met Larry, Yalitza took medical leave from college
25 to process her mental health struggles. In 2010, she

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1 journaled, before she met Larry.

2 The siblings' mental health histories make clear that
3 Larry was not the cause of their mental health struggles. The
4 Rosario siblings shared with Larry their thoughts and feelings
5 about their parents. Larry listened to them, reassured them,
6 and provided them a space to emote. Larry echoed the siblings'
7 thoughts about their parents. He didn't create them.

8 Throughout the years multiple people drifted away from
9 Larry—Daniel Levin, Santos Rosario, Yalitza Rosario, Claudia
10 Drury. Larry didn't go after any of them.

11 In 2015, when Santos drifted away from Larry, by that
12 point Santos had sent Larry photographs of his journal entries,
13 photographs of confessions he had written, and he had given
14 Larry some of his journals. Larry didn't post any of this
15 damaging information anywhere, as the government claims he
16 threatened to do.

17 The same is true of Yalitza, who stopped speaking with
18 Larry in 2016.

19 And when Santos reconnected with Larry in 2019, it was
20 on his own. Larry hadn't reached out to Santos. Larry
21 wasn't -- it wasn't at Larry's urging or suggestion. Santos
22 independently reached out.

23 Some of the witnesses that you heard from testified
24 about how Larry exposed them to sex, encouraged them to be more
25 uninhibited, to explore sexual fantasies. The government wants

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1 you to believe that this is sexual grooming. It is not. Dawn
2 Hughes testified about sexual grooming. She said grooming
3 means coercing a child into sexual activity and maintaining the
4 secrecy of the abuse. All of the witnesses were adults when
5 they met Larry. Not a single one was a child. They attended
6 liberal arts colleges and lived on their own before they ever
7 met Larry. And during their freshman year of college, those
8 who attended Sarah Lawrence were exposed to Sleaze Week, a
9 week-long celebration of sexuality and body positivity. Larry
10 didn't implant these ideas into their heads. He didn't force
11 anyone to have sex. He encouraged consenting adults to explore
12 their sexual identities and sexuality. It may seem strange, it
13 may appear perverse, it may be vulgar, but it's not grooming,
14 and it's not criminal.

15 Dr. Hughes is a psychologist who routinely treats,
16 assesses, and evaluates individuals. To be clear, she didn't
17 examine any of the witnesses who testified in this case. She
18 has no opinion about the relationships at issue in this case.
19 For all of Dr. Hughes's discussion, she never told you whether
20 coercive control was actually used in this case.

21 Similarly, Larry's email to Felicia with erotica
22 links, that's not sexual grooming. When Felicia Rosario met
23 Larry, she was 29 years old. She was a medical resident with a
24 full-time job, living across the country in California,
25 3,000 miles away, in her own apartment, with friends. Eight

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1 months into their relationship, Larry sent her an email with
2 links to pornography. This isn't grooming. Even Dawn Hughes
3 would be hard pressed to consider sexually implicit content
4 shared between two consenting adults outside the norm. She
5 testified that people in healthy relationships can talk about
6 sex.

7 And Felicia having sex with strangers, that's not sex
8 abuse. Felicia testified that during her time with Larry, he
9 forced her to record herself having sex with strangers. But
10 Larry didn't force her to do that. How do you know that?
11 Well, the first time Larry asked Felicia to have sex with
12 strangers and record herself, Larry was living in New York, and
13 Felicia was living 3,000 miles away in California. The notion
14 that Larry forced her to have sex with a stranger while she was
15 thousands of miles away is just absurd.

16 Felicia also testified that at one point Larry asked
17 her to begin escorting, that he repeatedly asked her to engage
18 in sex work. But Felicia was adamant on this. She refused.
19 Never once did she agree to accept money in exchange for sex.
20 She held firm. And eventually Larry stopped asking. There is
21 no reason to believe that Felicia couldn't have exercised the
22 same agency by refusing to record herself having sex with
23 strangers. Sitting in court testifying, Felicia may have felt
24 regret over what she did, she may be embarrassed by the videos,
25 but at the time that she agreed to record them, she was over 30

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1 years old, in a relationship, competing with Isabella for
2 Larry's love and attention. In hindsight, it's easy to blame
3 Larry, but at the time, she had agency. She chose to engage in
4 sex work. Excuse me. She chose not to engage in sex work.
5 But she chose to have sex with strangers. This isn't a crime.
6 It's not sex abuse, and it's not forced labor.

7 I want to spend some time talking to you about some of
8 the more disturbing evidence that you saw and heard throughout
9 this trial. Some of the testimony about Larry's violence could
10 be characterized as roughhousing, or method therapy, trying to
11 make people tougher, like teaching Claudia how to use bigger
12 people, a bigger person's body against themselves in a fight,
13 or using a rubber spatula, putting a rubber spatula to Iban's
14 neck and pretending it was a sharp instrument. Some of it was
15 showing off, like putting Santos in chokeholds. But some of it
16 was real.

17 As you're all now very well aware, Larry recorded
18 everything—the good, the bad, and the very, very ugly. He
19 recorded himself berating people and committing acts of
20 violence. This isn't something that you'd do if you believed
21 you were committing criminal acts. You wouldn't keep records
22 of your own severe violent behavior. But Larry did. And
23 because of that, you saw Larry restraining Felicia in Pinehurst
24 when she was flailing her body and acting unwell, you saw Larry
25 hitting Dan after Dan said he had click-bombed Larry's website,

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1 and you heard Larry striking Santos after Santos said he had
2 posted personal information about Larry online.

3 None of this is good. None of it is acceptable. But
4 you're not being asked to approve of Larry's behavior. But to
5 be clear, this isn't a federal crime. The violence and threats
6 that you saw and you heard were not used to get anything—not
7 money, not property. Think about the context when you saw and
8 heard these acts. They were completely divorced from requests
9 for money. Larry truly believed he was entitled to repayment
10 for damages. But he didn't resort to violence when he was
11 seeking compensation for that harm. No matter what you think
12 or feel about what you've seen or heard, the context of these
13 acts is not proof of extortion or conspiracy to commit
14 extortion beyond a reasonable doubt.

15 I want to talk for a moment about the damages list
16 that Santos made. Much has been made of these lists. As he
17 testified, Santos generated these lists entirely on his own.
18 There's no evidence that Larry forced Santos to make these
19 lists. Santos created them, he edited them, he maintained
20 them. One of the lists is in Spanish. It's clear that list
21 was intended for his dad. And Maritza's testimony confirms
22 that.

23 Larry encouraged people to write their thoughts down
24 not so he could collect them, but to encourage people to
25 express their feelings. As Felicia testified, "well, it wasn't

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1 revolutionary. Larry's journaling was one of the more helpful
2 things that Larry encouraged." The government wants you to
3 believe that Larry collected all of these individuals'
4 journals, their belongings, their hard drives, as collateral.
5 But Larry's home and storage unit were merely a reflection of
6 the last ten years of his life—messy, complicated, and
7 completely disorganized. There was no method to Larry's
8 madness. It was simply madness. The journals were relics,
9 artifacts, of people's pasts, and they were stored that way, in
10 boxes and suitcases deep in a storage unit.

11 As Felicia told you, Larry's apartment became a shared
12 space. As various people passed through, whether they stayed
13 overnight or stayed for the day, or actually resided with
14 Larry, they brought their belongings, their books, their
15 clothing, their school notebooks. And over time, Larry's
16 storage unit just became an accumulation of everyone's stuff,
17 things that they had just left at the apartment over the years.
18 Felicia said those who spent time at the apartment simply
19 understood that everyone's stuff would end up in storage
20 because there just wasn't enough space in Larry's tiny,
21 cramped, one-bedroom, messy, cluttered apartment to fit
22 everything.

23 Larry didn't collect people's belongings. There's no
24 evidence that Larry forced anyone to give him their journals,
25 that he demanded to keep their schoolwork. People treated

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1 Larry's apartment like a dumping ground, and so did Larry.

2 In the summer of 2013, Larry, Talia, and Isabella, and
3 Felicia decided to travel to Pinehurst, North Carolina, to do
4 yard work on Larry's stepdad's property. Larry didn't trick
5 anyone into going. Everyone who went knew why they were going
6 and wanted to go. They didn't forgo lucrative summer jobs to
7 work in Pinehurst. They all understood that they would be
8 spending their time there learning to do yard work. No one was
9 forced. In the government's telling, it was just a bunch of
10 city kids in a rural area, but they weren't kids. Felicia
11 Rosario was 31 years old that summer, and everyone else was in
12 their 20s. Certainly the individuals doing work in Pinehurst
13 didn't have experience doing manual labor outdoors. As Claudia
14 testified, she had never done any yard work before Pinehurst.

15 In Pinehurst, no one paid for food and no one paid for
16 housing. Everyone had a bedroom to sleep in. Felicia told you
17 she didn't work every day. She would take long walks every day
18 for an hour or two. And they ate. The government has tried to
19 assert that the folks who were in Pinehurst only had two meals
20 a day. But Yalitza told you, this is simply untrue. As she
21 testified, they ate breakfast, lunch, and dinner.

22 There was evidence of physical force in Pinehurst.
23 We're not running away from that, and we're not excusing it.
24 But these acts are not evidence of a federal crime. There's no
25 evidence that Larry threatened to harm anyone if they didn't

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1 work in Pinehurst, and there's no evidence that Larry
2 physically hurt people in order to get them to work. The acts
3 that you saw and heard about are unconnected to the actual work
4 that was performed in Pinehurst. Larry and Yalitza restrained
5 Felicia in reaction to her uncharacteristic behavior, trying to
6 stop her from hurting herself and others.

7 And the threat to turn people into law enforcement had
8 nothing to do with manual labor. Just as the threats and
9 violence with respect to the extortion charge were actually
10 unconnected to the request for money and property, so too are
11 the threats of force and violence in Pinehurst unrelated to the
12 actual physical labor. There's no indication that threats of
13 force or the use of force was used to compel people to work in
14 Pinehurst.

15 A year ago, Felicia likened her experience in
16 Pinehurst to school. She viewed the work in Pinehurst as a
17 teaching moment, and so did Larry. At one time, she told you,
18 she believed it was a learning environment. To the extent that
19 people worked hard, it was an effort to compete with one
20 another for Larry's approval. And that time seemed to be an
21 effort to prove themselves to Larry, Felicia once believed.

22 Since then, Felicia has met with the government, more
23 than 20 times, over the past 15 months. And as Felicia
24 testified, since she started working -- since she started
25 meeting with the government, her perspective on her time with

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1 Larry has evolved. By the time she testified, Felicia compared
2 Pinehurst to an abusive, medical residency. She said it's like
3 when an attending is really aggressive and expects you to know
4 everything and you get shamed into doing things if you do
5 things incorrectly. The conditions in Pinehurst certainly
6 sound miserable, especially with people, four people with no
7 experience in yard work. But spending days outside landscaping
8 falls far short of a violation of federal forced labor laws.
9 Claudia and Yalitza both testified that they could not leave
10 Pinehurst, and yet they did. They had access to their phones,
11 their purses, their wallets, and, in the case of those who
12 drove—Yalitza and Felicia—they had access to cars. They
13 weren't in the middle of nowhere. They were in the suburbs,
14 surrounded by golf courses, a short drive away from the nearest
15 train station.

16 Claudia told you a story about running off to a golf
17 course and sitting there and waiting for a few hours until
18 Isabella eventually came by and picked her up. She told this
19 story when she testified on the stand. She also told the story
20 to the government for the first time, after meeting with them
21 for more than two years, just days before her testimony. She
22 made this up.

23 You saw Claudia testify. She's smart and she's
24 capable. She bought her own ticket to Pinehurst, and when she
25 arrived, she waited for her friends to pick her up. And when

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1 they didn't come, she started Googling for Pinehurst cabs and
2 taxis, 'cause that's a thing that exists in Pinehurst. She
3 could have purchased a train ticket back to New York, she could
4 have called a cab, and she could have left, just like Yalitza
5 did.

6 That wasn't the only lie that Claudia told about her
7 time in Pinehurst. She testified that Larry ripped Felicia's
8 clothing in Pinehurst. When asked about it on cross, she said
9 that there's no way that Felicia would have ripped up her
10 clothes. That's how she knew Larry must have done it. But
11 when Felicia was asked about ripping her clothes in Pinehurst,
12 she said that she did rip up her own clothes, because she was
13 so unwell.

14 Claudia also testified that she truly believed that
15 Gordon Ray would die of a heart attack if the work in Pinehurst
16 wasn't completed. That he would die. This is something
17 someone says flippantly, like, "I'll die if this trial doesn't
18 end soon." It's hyperbole. Certainly Claudia didn't believe
19 that a man would lose his life over bad yard work. There was
20 no conspiracy, no agreement to commit forced labor in
21 Pinehurst. Talia's mere presence in Pinehurst coupled with a
22 one-sentence email to Claudia thanking her for acknowledging
23 the damage she had done to the property, that doesn't ask for
24 or demand any money, does not satisfy proof beyond a reasonable
25 doubt that Talia agreed with anyone to commit forced labor.

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1 Talia spent her time inside studying and cooking meals for the
2 group. There's no allegations that Talia forced anyone to work
3 in Pinehurst and no evidence that she agreed with anyone to do
4 the same.

5 I want to take some time to talk about the articles
6 that were found on Larry's computer. The government argues
7 that these articles are proof of Larry's criminal intent.
8 They're just not. For a period of time, in addition to sitting
9 around a lecture hall and listening to seminars led by
10 professors, Talia and her friends gathered at her father's
11 home, and they talked. As Claudia testified, they spent the
12 large part of the summer in 2011 just talking about
13 philosophical concepts like honesty, choice, preferences, and
14 how do you know what a lie is.

15 And Felicia told you about the fall of 2012. It was
16 much the same. Felicia and Larry would sit around talking
17 about physics, atoms, molecules, history, philosophy. Larry
18 would share and openly discuss articles about mind control and
19 critical thinking, the very types of articles the government
20 now argues is proof of Larry's criminal intent. But the
21 articles that were found on Larry's computer, they're just
22 that, academic articles, articles that could just as easily
23 have been extracted from the hard drive of a psychology
24 professor or student or taken straight out of a college
25 syllabus. They weren't hidden from the group. They weren't

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1 weaponized against individuals. They were discussed. Felicia
2 was training to be a psychiatrist. Santos, Isabella, Talia,
3 they were studying psychology as well. Larry shared these
4 articles with Felicia and the others. That they were found on
5 the computer in his home does not speak to his character and
6 does not speak to his criminal intent.

7 I want to talk to you about the alleged financial
8 crimes, beginning with the tax counts. Now buckle up, because
9 this is real boring.

10 To establish each of the tax evasion counts, the
11 government has to prove beyond a reasonable doubt that Larry
12 acted wilfully. The Court is going to instruct you on the law,
13 which is clear. Not filing a tax return does not equal tax
14 evasion.

15 Yesterday you heard from Larry's lawyer, Glenn Ripa.
16 During a casual conversation in the course of his
17 representation of Larry, Larry asked whether he had to report
18 the money that he was -- that Claudia was gifting him for
19 damages for physical harm. And his lawyer told him no, that
20 money is not taxable. Relying on this advice, Larry acted in
21 good faith when he didn't report that money to the IRS. It was
22 of no consequence that Larry didn't tell Mr. Ripa all of the
23 details surrounding that money. Mr. Ripa said he didn't have
24 to report it, and Larry trusted his lawyer's advice. The
25 government now wants you to believe that in 2015, Larry asked

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1 if he had to pay taxes on damages in anticipation that one day
2 he may need a defense to tax evasion. This is absurd. Larry,
3 as you've learned, is a man who creates a record of everything,
4 who records every conversation he deems important. Surely if
5 Larry had asked Glenn for tax advice in anticipation that one
6 day he may need to rely on that advice as a defense, he would
7 have recorded it. You would have heard a recording. You
8 didn't, because that's not why Larry asked. The government
9 can't prove Larry wilfully acted to evade his taxes beyond a
10 reasonable doubt.

11 The government also argues that Larry intentionally
12 devised a money-laundering scheme to avoid a paper trail.
13 We're talking about a man who created and maintained a
14 voluminous catalog of audio, video recordings, writings,
15 including the very detailed ledger kept by Isabella, which
16 includes Larry's initials. Contrary to the government's
17 argument, the fact that Larry kept so many records, insisted on
18 such meticulous accounting, kept every single receipt,
19 demonstrates that he didn't believe what he was doing was
20 illegal. And he certainly wasn't trying to hide it. If he
21 was, he wouldn't create this paper trail. But in a case like
22 this, where nearly the entirety of the government's case rests
23 on evidence recovered directly from Larry himself, that
24 argument simply fails.

25 The government also wants you to believe that Larry

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1 spent lavishly and lived a life of opulence. To support this,
2 they showed you seven receipts for shockingly expensive
3 clothes, and a handful of hotel receipts, over the course of
4 ten years. While Larry certainly spent extravagantly at times,
5 he wasn't living as if he had millions of dollars. His
6 assertion that his domain portfolio was worth \$34 million is
7 dead wrong. You heard Kyle Sliger from GoDaddy testify that of
8 the 8,000 domain names that Larry purchased over five years, he
9 sold only 12. 12. Safe to say Larry didn't walk away with
10 millions of dollars in GoDaddy proceeds. Indeed, no cash was
11 recovered during the search of Larry's home in Piscataway.

12 And this is where Larry lived in Manhattan. As
13 multiple witnesses testified, it was a small, cluttered mess.
14 And when he left this home, Larry moved to a three-bedroom
15 ranch home in New Jersey, where he lived at first with five
16 other people. As Felicia testified, while they were living
17 there, they tore up the carpets, revealing multiple black mold
18 spots resulting from water damage to the home. Plastic
19 sheeting concealed the floors. This is where Larry lived. As
20 Felicia testified, the bulk of the money was spent on the
21 property in Piscataway, welding equipment, computer equipment,
22 food, and then clothes.

23 And the transfers also suggest that Larry was helping
24 to support his daughter and stepfather in North Carolina.

25 The government argues that the poisoning allegations

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Summation - Ms. Lenox

1 are an elaborate ruse, nothing but a distraction from Larry's
2 long con. Nothing could be further from the truth. This
3 wasn't a con. Larry didn't act with an elaborate plan. And
4 Felicia testified Larry, Isabella, and Felicia herself, they
5 all felt sick. And their illness was inexplicable. They
6 visited doctors and sought medical treatment. Felicia too at
7 one point believed that she had been poisoned. In 2015,
8 Felicia suffered from an inexplicable seizure while she was
9 living in Pinehurst. Her body would inexplicably ache all over
10 and she would scream out in agony. The government told you
11 that Larry spent a lot of money on clothes, but Felicia told
12 you they all just spent money on medical bills. She said that
13 she spoke with Santos and told him that they needed money,
14 because Larry was sick and had lots of medical bills, which was
15 true, she said. Even sitting in court, two years after Larry's
16 arrest, Felicia remains uncertain about the cause of her
17 physical ailment. Even after spending 15 months talking to the
18 government, she continues to be uncertain about whether she was
19 actually poisoned. She recognizes that it may not make logical
20 sense, but the physical health problems were real. The
21 government shouldn't simply discredit that, and neither should
22 you.

23 Toward the end of 2014, Claudia Drury knew that it was
24 only a matter of time before she would be evicted from her
25 apartment in New York. She'd been living with her mother in

M451RAY1

Summation - Ms. Lenox

1 Manhattan, and her mother moved out. She moved out of state
2 because she couldn't afford the rent. Claudia could have moved
3 out of state with her mother. She chose not to. She stayed in
4 New York. Her mother's name was on the lease; Claudia's
5 wasn't. Claudia was taking classes at Columbia. She had no
6 job, no source of income, and she couldn't afford the apartment
7 where she lived. She was an adult living in New York City.
8 She needed money, and she needed money fast. Larry suggested
9 escorting. And it made sense. Claudia enjoyed sex. And
10 there's nothing wrong with that, frankly. It's perfectly
11 healthy and natural. Claudia attended sex parties, she worked
12 at a sex club, she engaged in BDSM. You saw her journal. She
13 enjoyed kink. She wrote in explicit terms about her enjoyment
14 of kink. She said, "I don't know how to describe it. It's
15 amazing. Holy wow. A new piece of my sexuality realized.
16 It's really, really cool. This is a whole 'nother level." And
17 that's okay. There is absolutely nothing wrong with that.

18 The government wants you to believe that Claudia's
19 entry into sex work was the result of Larry's grooming, but
20 there's no independent evidence to corroborate Claudia's claims
21 that Larry groomed her. Santos didn't testify at all about
22 Claudia's sexual behavior before she started engaging in sex
23 work. Neither did Yalitza. And Felicia, who was living with
24 Larry from the fall of 2012 on, told you explicitly that she
25 never saw Claudia engage in sex with anyone. Claudia decided

M451RAY1

Summation - Ms. Lenox

1 to become a sex worker. And initially, after going through an
2 escorting service, she took control of her own business. She
3 took pictures of herself in the beginning and then had
4 professional photographs taken. The government showed you
5 those photographs. She drafted advertisement content. She
6 purchased advertisement space. She posted about her services
7 online. She decided which clients to see, which hotels to stay
8 in, and how much money to charge.

9 And you saw Claudia's notes on her escorting services.
10 Claudia was a shape shifter. She conceived of personas based
11 on the wants and desires of her clientele. Lauren I, Lauren
12 II, Ella. She thought about what wealthy clients would want
13 and had enough control to portray herself as the person her
14 clients desired.

15 And you saw a note that Claudia wrote in her iCloud in
16 support of sex work. She said sex work is awesome. She found
17 sex work to be life affirming in many ways. She said she loved
18 what she does and that her experience was not one of abuser and
19 victim. She testified that as she earned money escorting, she
20 began giving money to Larry, not because he forced her but
21 because she believed that she had poisoned him and she wanted
22 to pay him back for the damages that she caused. She may
23 regret that now, and she has to explain it somehow, so she says
24 she was forced. But there is no objective credible evidence to
25 support Claudia's claims. Certainly you've seen threats of

M451RAY1

Summation - Ms. Lenox

1 force and violence against others in this case, but you haven't
2 seen any evidence or heard any testimony about physical abuse
3 or threats against Claudia except from Claudia herself. You
4 heard from Randy Levinson, one of Claudia's clients on a list
5 of many. He told you that in the time that he spent with
6 Claudia, he never observed any marks on her body. He never had
7 any reason to believe that she was trafficked. He never saw
8 her with a handler. He never heard about Larry Ray.

9 Claudia claimed that Larry threatened to send her to
10 jail, detailed for her the horrors of a life in prison. She
11 claims that she was terrified of going to jail. But during the
12 course of the time that she was prostituting, Claudia was
13 arrested three times. Each time she could have gone to jail.
14 She kept working. And when she was arrested, the police asked
15 her if she was being trafficked. She said no. If Claudia was
16 truly being forced into sex work, that was her moment to get
17 out. Larry wasn't there when she was arrested. He would have
18 no way of knowing that she had communicated with the police.
19 That was her safe time. She denied it.

20 And despite her claims of being terrified of jail, in
21 her journal, documenting her fears of jail, she wrote that she
22 feared jail because she couldn't go to Columbia anymore, no
23 more academics, never joining the Marines, no more sex, no more
24 men. This is what Claudia feared losing when thinking about
25 going to jail.

M451RAY1

Summation - Ms. Lenox

1 Claudia said she didn't want to be an escort, that she
2 only did it because she felt she had no other choice. She
3 claimed she couldn't stop. She couldn't leave. But then she
4 did. In April of 2019, Claudia decided to stop escorting. And
5 she testified that she bought a train ticket, she traveled to
6 Philadelphia, and she turned off her phone. She never spoke
7 with Larry again. The only contact, she received an email from
8 Larry wishing her a happy Easter. Claudia characterized it as
9 an "absurdly weak attempt" to win her back.

10 And just like when Santos, Dan, and Yalitza decided to
11 stop spending time with Larry, when Claudia decided to end
12 contact with Larry, he never came after her. He never went
13 looking for her. Nothing actually came of the emails exchanged
14 between Larry, Isabella, and Talia in the days and weeks after
15 they lost contact with Claudia. Larry didn't call Stuart
16 Piltch. He didn't sue Claudia. He didn't turn her in to law
17 enforcement. He didn't post anything more on the website.

18 When you're deliberating about the sex trafficking
19 charge, you have to consider Claudia Drury's credibility. You
20 have to.

21 (Continued on next page)

M45MRAY2

Summation - Ms. Lenox

1 MS. LENOX: The sex trafficking charges, and
2 specifically whether Larry forced Claudia to engage in sex work
3 and whether Isabella conspired with him to do that, rises and
4 falls on your belief of Claudia Drury. This is a person who
5 for years has struggled with truth telling, who admitted to
6 embellishing stories for attention when she was younger.
7 Difficult to parse truth from fiction with Claudia.

8 Here is just a few of the stories that Claudia
9 admitted to telling. She said that once after she took Ambien
10 she pretended to faint. She once made up a story about failing
11 her driver's license test. She testified under oath in housing
12 court about Bernie Kerik's conspiracy against Larry Ray. After
13 the DiTomasso assault on Larry, when medical providers asked
14 Claudia what happened to her finger, instead of saying that
15 Frank DiTomasso bit it, she made up a story that a homeless man
16 having bitten her finger.

17 She told her therapist that she had thoughts of
18 harming others as a teenager when now actually claiming she
19 didn't have those thoughts. During the hospitalization for a
20 suicide attempt she admitted that she swallowed pills in order
21 to get her parents' attention. She crafted a months-long
22 narrative to get more money from clients. You heard this
23 Claudia and from Randy Levinson. And she lied to the
24 government for a year and a half about her relationship with
25 Stuart Piltch. This is the testimony of the person the

M45MRAY2

Summation - Ms. Lenox

1 government needs you to believe in order to find beyond a
2 reasonable doubt that Mr. Ray committed sex trafficking. She
3 is not believable.

4 There was no assault in the Gregory Hotel on October
5 15, 2018. Never happened. The government presented a lot of
6 evidence to establish that Larry and Isabella were physically
7 present with Claudia at the Gregory Hotel that night. They
8 showed you historical cell site evidence, they showed you text
9 messages, a diner receipt, an audio recording, but there is
10 very little relevant evidence about the alleged assault itself.

11 For that, you must rely on the word of Claudia Drury,
12 a notorious storyteller and Felicia Rosario, who wasn't at the
13 hotel that night. This is not proof beyond a reasonable doubt.
14 There is no objective credible evidence to support the claim of
15 assault. The claim is not supported by any objective witness
16 and it defies common sense.

17 Given the extraordinary volume of documentary evidence
18 in this case, the lack of evidence corroborating the alleged
19 assault on Claudia is striking and it's notable. Claudia
20 claims that, over the course of eight years, Larry and Isabella
21 tied her to a chair, poured water on her, choked her, and
22 suffocated her.

23 She also claimed, and cell site records support, that
24 Isabella had her phone that night. Claudia also had her phone.
25 During the course of the night, while Claudia was allegedly

M45MRAY2

Summation - Ms. Lenox

1 tied to a chair and tortured, as you saw during Agent Maguire's
2 testimony, three calls were made from Claudia's phone,
3 including one call to the Skylight Diner.

4 Claudia testified that she didn't eat the night of the
5 incident at the Gregory Hotel. The food ordered was not for
6 her. But let's take a look at the diner receipt. Stuffed
7 grape leaf, cheeseburger, another cheeseburger, chicken
8 fingers, mozzarella sticks, two cheesy omelets, two sliced
9 sausages, four soda pops. This isn't a meal for two people.
10 Claudia ate that night and she was the one who ordered the
11 food.

12 Claudia testified that you can hear the sounds of the
13 bags used to suffocate her, the rustling towards the end of the
14 recording from that night, that you can hear Larry say, pass
15 the bag. But they were eating. Larry wasn't asking Isabella
16 for a bag to suffocate Claudia. He was asking for a bag of
17 food. The recording that you heard from that night, it's not
18 unlike any of the other hundreds of recordings that the
19 government has put in evidence: A seeming confession, a story
20 told by a person now disclaiming the narrative, nothing more.

21 Now, Claudia also claims that Isabella that night
22 found a pair of golden seamstress scissors with a crane around
23 the handle in her purse and that Larry used these scissors to
24 cut Claudia's hair. But these scissors, which Claudia clearly
25 prized, they are not in evidence. Of all of the evidence that

M45MRAY2

Summation - Ms. Lenox

1 you have in this case, you don't have those very special
2 scissors that were allegedly used to cut her hair that night.
3 Of all the photographs that you have in this case, you don't
4 have before and after photographs of Claudia's hair and how it
5 looked after Larry allegedly cut it. Nothing to show that it
6 changed.

7 Most significantly, there is no evidence that Claudia
8 suffered a serious physical injury that night. Immediately
9 after the incident, Claudia said, she just cleaned her room and
10 went to bed. She didn't seek medical attention. These aren't
11 the actions of a person who suffered a serious physical injury
12 just hours prior, because she didn't. Claudia didn't behave
13 the way you would expect of a person who had been tortured for
14 eight hours. After Larry and Isabella left, Claudia didn't
15 seek help from the people who were working at the hotel. She
16 didn't call the police. She didn't immediately tell anyone,
17 including the clients with whom she claims she had built a
18 relationship, like Randy Levinson.

19 What happened? There is no evidence that when Claudia
20 first reported the alleged assault who she told or when she
21 told them. As Claudia testified, she woke up the next day,
22 bought a new cell phone, checked into a hotel, saw clients, and
23 earned money.

24 Larry didn't have her number. Isabella didn't have
25 her number. They had no way of reaching her and no way of

M45MRAY2

Summation - Ms. Lenox

1 knowing where she was. Claudia was alone with money. She
2 could have vanished. She didn't.

3 Felicia Rosario's testimony doesn't make Claudia's
4 story any more believable. In fact, as the government said in
5 its closing, the stories are almost exactly identical, and you
6 have to ask yourself why. It's a bit too neat.

7 Felicia claims that she specifically remembers Larry
8 and Isabella coming home one day in October of 2018 acting
9 gleeful, bragging about what they had allegedly done to
10 Claudia. But in the context of Felicia's testimony it doesn't
11 make sense. Because Felicia testified that in her experiences
12 with Larry and Isabella with respect to Claudia, they didn't
13 tell her anything about what happened with Claudia when they
14 interacted with her. They intentionally siloed her from
15 Claudia. They hid things from her. She said that Isabella
16 worked on her ledgers in private, in her room behind a closed
17 door, and actually said, I don't want you to see what I'm
18 doing. And yet, suddenly, after years of concealing their
19 behavior, Larry and Isabella come home and giddily bragged
20 about committing a heinous crime. It doesn't make sense.

21 Felicia had a motive to come in here and tell you that
22 story. She spent nearly a decade in a relationship with a man
23 who she referred to as her husband and who he referred to her
24 as his wife. A man who behind closed doors shared a bedroom
25 with another woman, just like her father had. She lived in the

M45MRAY2

Summation - Ms. Lenox

1 shadow of Isabella and was constantly reminded of it.

2 When Felicia first moved to New York, she imagined a
3 completely different life for herself. As her sister
4 testified, Felicia wanted a fairy tale. So when you think
5 about Felicia's testimony, think about that. When you think
6 about Claudia's testimony about the incident at the Gregory
7 Hotel, consider the recording that you heard of the elaborate
8 story that Ms. Drury told to Larry in the summer of 2014. She
9 described vividly three men emerging from a white van in broad
10 daylight. She described each man in meticulous detail,
11 including their height, their weight, their racial ethnicity,
12 their facial hair, their body markings. She claimed that these
13 men pinned her against a wall and threatened her, saying they
14 were sent at the behest of Bernie Kerik.

15 (Audio played)

16 MS. LENOX: Her descriptions were vivid. They were
17 detailed. She told an extraordinary story about having been
18 victimized in broad daylight by men sent by Bernie Kerik. You
19 could hear the tears in her voice. These weren't details that
20 she embellished. This was a story that she invented. She told
21 you that. Claudia Drury's testimony about October 15, 2018 is
22 not proof beyond a reasonable doubt that Larry committed
23 assault.

24 This is a case about storytellers, but it's also a
25 federal criminal case. The prosecution must prove its case

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Summation - Ms. Lenox

1 beyond a reasonable doubt. The judge will instruct you about
2 what that means. A reasonable doubt is the kind of doubt that
3 would make you hesitate in an important moment in your life.

4 At the end of the case the judge is going to spend a
5 very long time, a very long time, I promise you, reading you
6 the instructions that you have to follow when deliberating
7 about this case. Larry is charged with very, very specific
8 crimes, each of which has a number of elements. The question
9 before you is not whether or not you approve of Larry's
10 actions. You cannot convict Larry unless you find him guilty
11 beyond a reasonable doubt of each and every element of the
12 offenses charged.

13 Now, after I'm finished speaking, and I promise you
14 that will be very soon, the government is going to stand up and
15 talk to you again. They get the last word. Because it's the
16 government that has that burden of proof beyond a reasonable
17 doubt. I urge you, when you listen to the government, please
18 keep my voice, keep these arguments in mind. If you hear
19 something new in rebuttal, no, I won't be able to respond to
20 it. Ask yourself, how would the defense respond?

21 If you think that Larry Ray believed that he was
22 poisoned, believed that he was owed money for damages, you must
23 find him not guilty.

24 You heard from different witnesses in this case:
25 Santos Rosario, Felicia Rosario, Yalitza Rosario, Claudia

M45MRAY2

1 Drury. They are all storytellers. They listened to Larry's
2 stories, they listened to his belief in a vast conspiracy
3 against him, and they began telling their own stories, adopting
4 Larry's villains as their own. And as they told and shared
5 their stories, they believed the fiction they created, and
6 Larry believed. At the end of this case you must find Larry
7 Ray not guilty.

8 THE COURT: Thank you, Ms. Lenox.

9 Members of the jury --

10 MS. SASSOON: Can we have a brief sidebar?

11 THE COURT: Yes.

12 (Continued on next page)

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M45MRAY2

1 (At sidebar)

2 MS. SASSOON: I did not want to interrupt the last
3 lines of Ms. Lenox's closing. But if I heard correctly, she
4 said that if the jury believes that the defendant was not
5 poisoned or believed he was poisoned, it has to find him not
6 guilty. That's legally incorrect. It's inconsistent with the
7 jury instructions as we have discussed them, and we believe a
8 curative instruction is appropriate.

9 THE COURT: I am prepared to give a curative
10 instruction along the lines of, you are going to hear from me
11 in a moment or two the law with respect to the charges at issue
12 and that it's that law, rather than the arguments that you have
13 heard from any counsel, that you are to apply.

14 MS. SASSOON: We think it needs to be specific to the
15 idea that we heard argument that if he believed he was poisoned
16 he is not guilty. I am going to give you the correct
17 instruction with respect to that.

18 MS. LENOX: I don't think it needs to be that
19 specific. This is argument. Your Honor, I think it's enough
20 to simply say that argument is not the law, that argument is
21 argument, that you, the Court, will give the jury the
22 instructions on the law, and they are to follow your Honor's
23 instructions. This is argument.

24 THE COURT: I am going to add a clause that's
25 including the significance of claiming Mr. Ray believed that he

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1 was poisoned.

2 MS. SASSOON: Your Honor, we would ask that you say
3 the significance, if any.

4 THE COURT: No. It has significance, potentially, as
5 to some of the claims.

6 MS. GLASHAUSSER: Your Honor, the government already
7 has an opportunity to rebut our summation, which they are about
8 to take. To put a finger on the scale even before the
9 government has --

10 THE COURT: I don't think it puts a pinger.

11 MS. GLASHAUSSER: -- by specifying a portion of our
12 summation, the government also spoke about the law, and both
13 sides are allowed to do that in the context of argument.

14 THE COURT: They stated the law correctly. Ms. Lenox
15 didn't. So I am going to give a bit of a curative instruction.

16 (Continued on next page)

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1 (In open court)

2 THE COURT: Members of the jury, you have heard
3 argument from both counsel where they have alluded to the law,
4 including, most recently, arguments from the defense regarding
5 the significance of the claim that Mr. Ray believed that he was
6 poisoned, that assertion from the defense.

7 Let me instruct you that it is the instructions that I
8 am going to give you that you are to follow with respect to the
9 law. It is not the assertions by any counsel as to what the
10 law is or how you should treat arguments about the law. I am
11 going to instruct you with respect to the law.

12 Now, the next step is the government rebuttal
13 summation. We are going to take a brief break and then we will
14 resume.

15 When you come back, you will notice that the podium
16 has been moved. Ms. Sassoon is going to deliver the rebuttal
17 summation for the government. There are protocols that we have
18 in the courthouse to ensure your safety, including taking COVID
19 tests and the like. The podium will be moved more closely to
20 you, and she may not have a mask on. I want to assure you and
21 comfort you that what she does is in conformance with all of
22 the rules within the courthouse that have been scrupulously
23 designed to make sure that they will protect everybody in this
24 courtroom.

25 It's now 10:20. We will take about a 15-minute break

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Rebuttal - Ms. Sassoon

1 and see you back here.

2 (Jury not present)

3 THE COURT: See you back in about 10 minutes.

4 (Recess)

5 THE COURT: Mr. Fishman, why don't we bring the jury.

6 Ms. Sassoon, what is your estimate?

7 MS. SASSOON: Thirty-five minutes, 40 minutes.

8 (Jury present).

9 THE COURT: Ms. Sassoon, you may proceed.

10 MS. SASSOON: This is not a case about storytellers
11 and this is certainly was not Alice in Wonderland. This was a
12 violent reality that destroyed lives for that man's pleasure
13 and for his organization's profit.

14 You know this is not a fantasy land. You heard from
15 five victims on that stand. You saw scores of documents
16 confirming what they told you. You heard hours of recordings.
17 Those weren't chapters from a children's bedtime storybook.
18 That was undeniable proof of federal crimes. You were chosen
19 as jurors to weigh the evidence, to trust what you have seen
20 with your eyes and heard with your ears throughout this trial,
21 that the defendant, Lawrence Ray, is guilty.

22 As you know, the government has the burden of proof in
23 this case. The defense does not have to make any arguments.
24 It does not have to say a thing. It is the government's burden
25 of proof, and we embrace that burden. But when the defense

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Rebuttal - Ms. Sassoon

1 makes arguments, as they just did here, it is your duty to
2 scrutinize them, to see if they match up with the evidence and
3 with your common sense. They don't.

4 The defense lawyers might talk a lot about the looking
5 glass, but they are not magicians. They cannot make hours of
6 the defendant's abusive recordings disappear or wish away
7 records documenting millions of dollars in profits that the
8 defendant laundered through GoDaddy and to his daughter, Talia
9 Ray, and they cannot discredit Claudia Drury, who took that
10 stand and whose testimony matched up with the testimony of the
11 other witnesses in this case and with the mountain of other
12 evidence.

13 I'm not going to respond to everything defense counsel
14 said. I don't have to. This has been a long trial and you
15 have paid close attention to the evidence. I am not going to
16 play any more recordings or show any more photos. You know
17 what happened. But I am going to respond to some of the things
18 defense counsel said.

19 I'd like to start with the time the defense has spent
20 talking in breathy whispers about what Larry believed. The
21 defense moments ago told you that if you find that Larry
22 believed that he was poisoned, then he is not guilty. They had
23 the audacity to flatly misstate the applicable law.

24 Judge Liman is going to instruct you on the law and
25 what he says controls, but I expect that he will tell you that

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Rebuttal - Ms. Sassoon

1 what the defendant believed about poisoning is obviously not a
2 defense to violent crimes. Imagine the world we would live in
3 if thinking you were a victim gave you license to behave like a
4 crime boss, to extort people, to sex-traffic them, to force
5 them into labor.

6 Thankfully, that's not the world we live in. We live
7 in a country with the rule of law. Suffocation, black mail,
8 punches to the face, a hammer to the knees, forced labor,
9 forced prostitution, that is not how you collect money, even if
10 you think you deserve it. That's extortion. It's sex
11 trafficking. It's criminal.

12 What you saw in this trial was not roughhousing. It
13 wasn't method therapy. Give me a break. Only in the
14 defendant's alternative looking-glass wonderland are videos of
15 Lawrence Ray engaging in violence somehow proof of his
16 innocence. It is irrelevant under the law if he thought he was
17 entitled to beat up these young college students. He wasn't.

18 And this notion, the suggestion that these violent
19 acts were not connected to the demands for payment, that's
20 ridiculous. You saw in these recordings and you heard from the
21 victims how the defendant's violence was connected to demands
22 for payment, to demands for labor, to demands for prostitution.
23 The defendant created a climate of fear that drove these young
24 people to steal from their parents, to commit prostitution, to
25 work into the night in thunderstorms. Of course that was a

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Rebuttal - Ms. Sassoon

1 product of the violence that they experienced, that they
2 witnessed, that they endured for years and years. So you do
3 not need to form an opinion about what the defendant believed
4 about the poisoning. It's irrelevant.

5 But let's get real. The defendant did not really
6 believe he was owed hundreds of thousands of dollars from the
7 Rosario family and millions of dollars from Claudia Drury. The
8 defendant, this physically imposing middle-aged man, never once
9 feared for his life from this group of Ivy Leaguers. Of course
10 he never believed that a Spanish-speaking immigrant mother,
11 Maritza Rosario, was plotting to kill him with the former
12 nominee of homeland security. It's ridiculous on its face.

13 But the substance of the accusations, that these young
14 people had tried to poison him, those are serious accusations
15 of attempted murder. Do not lose sight of that. If you really
16 and truly believed that someone was trying to poison you and
17 your daughter, that they had poisoned you with mercury, with
18 cyanide, with arsenic, would you sit around your living room
19 with them? Would you go to dinners together? Would you live
20 under the same roof? Of course not.

21 What would you do if you thought you were being
22 poisoned? You would get as far away as possible from that
23 person. You would report them immediately to the police. This
24 isn't about keeping your enemies close. Nobody in their right
25 mind would keep their attempted murderer in their house. It

M45MRAY2

Rebuttal - Ms. Sassoon

1 makes no sense because it is not true, it is not what Larry
2 believed.

3 The defense has made a big deal out of a single e-mail
4 sent to Preet Bharara. The only thing that is important about
5 that e-mail is the date of the e-mail, April 21, 2016, more
6 than two years after Claudia confessed to poisoning, more than
7 one year after she started sex work, giving the defendant all
8 of the money.

9 The e-mail to the U.S. Attorney's Office is not
10 evidence the defendant believed anything. It's evidence of how
11 far he was willing to go to scare his victims into believing
12 that they were going to jail so they would keep giving him
13 money, keep doing as he said.

14 The more time went on, the more the defendant had to
15 do something to make his victims believe that he was willing to
16 carry out his threats.

17 Claudia told you how the threats of prison escalated
18 and escalated. The defendant cooked up this bogus e-mail to
19 the head of federal law enforcement complaining of a wild and
20 baseless poisoning scheme at the hands of a bunch of students.
21 He knew it would go nowhere and get no attention.

22 And after this e-mail that, of course, went nowhere,
23 the defendant kept up his threats to Claudia. This wasn't the
24 defendant keeping his enemy close. This was him doing
25 everything in his power to keep the fear alive and to keep the

M45MRAY2

Rebuttal - Ms. Sassoon

1 steady stream of extortion payments flowing.

2 If you want to know what the defendant believed, look
3 no further than the chart of articles on in his computer.

4 These weren't on a professor's hard drive, like defense counsel
5 talked about. They were on the drive of a person who's
6 extracting false confessions by force and threats. He believed
7 he could use false accusations, brain washing, and group
8 dynamics to control the minds of his victims, and for a time it
9 succeeded. He got them to believe anything, to admit to
10 anything, to do anything, all for his own benefit.

11 The defendant told Claudia that he was spending the
12 money on hospital bills. He was doing no such thing. The
13 government didn't just show you a few receipts for expensive
14 clothing. Special Agent Maguire told you that she reviewed
15 hundreds of receipts, pages and pages of cash logs that showed
16 no meaningful medical expenses. That is not the behavior of a
17 man trying to recover from poisoning.

18 If the defendant believed the money was restitution,
19 that he and his family deserved it fair and square, he would
20 not have kept his name off of all of the bank records, hid the
21 money in other people's banks, and laundered it to GoDaddy.

22 And not only did the defendant himself say these
23 domains were worth \$34 million, you heard from Kyle Sliger, the
24 former employee of GoDaddy, who himself valued the defendant's
25 domains at \$17 million. That's at Government Exhibit 3212.

M45MRAY2

Rebuttal - Ms. Sassoon

1 Defense counsel talked about this meeting with Mr.
2 Ripa about the tax advice, and she brought up how the defendant
3 did not record this meeting. Of course he did not record it.
4 Because if he had, the recording would show even more crystal
5 clearly that this conversation was a sham. I expect Judge
6 Liman will tell you that with respect to the tax charges only,
7 the government has to prove that the defendant did not have a
8 good-faith belief that he owed no taxes.

9 The defendant's conversation with Mr. Ripa, as
10 described by Mr. Ripa on the stand, does not come close to
11 showing good faith. It's part of the exact same pattern of
12 manipulation. The defendant gave Mr. Ripa misleading facts
13 just so he could trot him out here at this trial and say, look,
14 I really did believe that I didn't owe taxes, but he didn't
15 tell Mr. Ripa about the violence, the threats, the coercion,
16 and, as Mr. Ripa told you, he certainly did not tell him about
17 the staggering amounts of money that he was collecting from
18 Claudia. The defendant knew that if he did, even a lawyer like
19 Mr. Ripa would not have given him the green light to evade his
20 taxes. No lawyer, no matter how incompetent or how corrupt,
21 would ever bless that behavior. This argument would be a joke
22 if the defendant's conduct were not so deliberately designed to
23 obstruct justice. The defendant manipulated Mr. Ripa and now
24 he is trying to manipulate the system and to manipulate you.
25 You know better than to fall for it.

M45MRAY2

Rebuttal - Ms. Sassoon

I would like to go back to this idea that this case is about storytellers. What that really means is the defense wants you to believe that victim after victim got on that stand and lied to you about the defendant's abuse, his coercive control, his threats, and his criminal organization.

That flies in the face of the evidence. The defendant's conduct was so cruel, so extreme, it might be tempting to think it was only the stuff of nightmares. If only that were so. But, based on the documentary evidence, you know that for the victims this was very much real life, that what they told you was true.

You have videos of Felicia having sex with strangers at the defendant's direction. You saw videos of the victims' grueling work in thunderstorms in North Carolina, videos of the defendant punching Felicia in the face, pinning her to the ground, recordings where the defendant's physical abuse of Santos in front of the group and Talia's threats of jail are unmistakable. You saw the ledgers in black and white tallying up millions of dollars in organizational profits.

The defense attacked these victims but had very little to say about these pieces of evidence because they have no response. All that they said was the violence was not tied to any of these crimes. You know that these videos capture the heart of the crimes, the heart of the extortion, the heart of what made these victims feel forced to work, forced to pay,

M45MRAY2

Rebuttal - Ms. Sassoon

1 forced to engage in commercial sex.

2 The defense wants you to ignore all of this evidence
3 because at one point these victims made false confessions. But
4 you know that these confessions did not materialize out of thin
5 air, that these victims did not thrive on spinning falsehoods.
6 That is nonsense. They made these confessions because the
7 defendant forced them to.

8 These confessions had common features for a reason.
9 Why? Because each victim was pressured by the defendant to say
10 increasingly outlandish and incriminating things, often in the
11 same exact ways, and always to end relentless interrogations at
12 the hands of the defendant to ward off the defendant's verbal
13 and physical abuse.

14 This defense about storytelling, it is just an
15 extension of the same self-serving conspiracy theories that the
16 defendant himself recycled again and again. Once again, the
17 defendant is claiming that everything and everyone is a liar
18 and a sabotage. He once used these fictions to control these
19 victims. Now he is using them to evade responsibility. He is
20 trying to fool you the way that he fooled them.

21 But there is a difference this time. When the victims
22 took the stand in court, they were no longer under the
23 defendant's coercive control. They were under oath. And what
24 they told you matched up in every important way with the other
25 evidence. The defense has failed to expose a single lie. You

M45MRAY2

Rebuttal - Ms. Sassoon

1 have the tools to see through the defendant's con.

2 I want to talk to you about Claudia Drury. Of all the
3 victims, the defendant has spent the most time trying to
4 convince you that Claudia as a storyteller, a liar, a sexual
5 deviant, even mentally unstable.

6 It is obvious why. As the defense told you, if you
7 believe Claudia Drury, the defendant is guilty of all the
8 charges in the indictment.

9 I want to be clear about one thing up front. The
10 defense has spent a lot of time on cross-examination and in
11 summation trying to convince you that Claudia wanted to be a
12 prostitute.

13 (Continued on next page)

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M451RAY3

Rebuttal - Ms. Sassoon

1 MS. SASSOON: Aside from being absurd, that is a
2 distraction. I expect that Judge Liman will tell you that if
3 there is just one instance in which the defendant used force,
4 threats of force, or coercion to cause Claudia to perform
5 commercial sex, then he is guilty.

6 What does that mean? I'll give you some examples. If
7 you find that at any point Claudia saw more prostitution
8 clients because the defendant suffocated her with a plastic bag
9 and told her to focus on work, or the defendant flogged her
10 with a crop, leaving a mark on her head, or the defendant hit
11 her in the face until she stopped flinching, or the defendant
12 threatened to expose her client list on the internet if she did
13 not make more money, or if the defendant threatened that she
14 would rot in prison with her face used as toilet paper if she
15 did not make repairs, then the defendant is guilty of sex
16 trafficking.

17 Remember Claudia's testimony about the Gregory Hotel.
18 I'll have more to say about that in a moment. The defendant
19 subjected her to hours of physical torture and then told her to
20 behave and focus on making more money. What did she do next?
21 She saw clients and she made more money, that she gave to the
22 defendant, because she feared for her life. The defendant is
23 guilty of sex trafficking, extortion, assault in aid of
24 racketeering, based on that incident alone, regardless of why
25 Claudia became a prostitute.

M451RAY3

Rebuttal - Ms. Sassoon

1 But you should also reject the defense effort to shame
2 Claudia as a slut who wanted to be a sex worker.

3 MS. LENOX: Objection.

4 MS. SASSOON: Your Honor, that was the fair
5 implication of cross-examination.

6 THE COURT: Members of the jury, this is just
7 argument.

8 MS. SASSOON: Those suggestions are outrageous and
9 insulting. Claudia, a graduate of Sarah Lawrence College, an
10 advanced mathematics student, did not wake up one morning and
11 decide that her life dream was to make money by having sex with
12 men between the ages of 18 and 85 years old, seven days a week,
13 almost 24 hours a day, and then to give nearly every cent to
14 the defendant, while she lived like a homeless person. You
15 know from what you've seen at this trial that the defendant
16 forced her to that place, forced her to become a sex worker.
17 And I'll remind you of some of the things that you learned at
18 this trial.

19 The defendant isolated her. He drove her to be
20 friendless, parentless, and homeless. He convinced her that
21 she was homicidal and mentally unwell, and that paying him was
22 her only hope of redemption. He inflicted violence on her and
23 in the presence of others. He coerced her to confess to
24 horrible crimes that she did not commit. He threatened to send
25 her to prison if she did not make monetary repairs, and fast.

M451RAY3

Rebuttal - Ms. Sassoon

1 And the defendant desensitized Claudia and others to
2 increasingly extreme sexual activity beginning in 2011, when
3 she was only 20 years old—20 years old, and he was the father
4 of her roommate, a middle-aged man. He told her to have sex
5 with Dan, to have sex with a married power tool salesman, and
6 he tied her up and instructed others to put a dildo into her
7 body. She told you why, by 2014, she was involved in horribly
8 painful and demeaning BDSM. It wasn't because she loved kink.
9 By then, the defendant had been so successful at convincing her
10 that she was a worthless criminal, a worthless human being,
11 that she felt she deserved the abuse.

12 I just want to pause here for a moment, because
13 defense counsel talked to you a few times about the testimony
14 of Dr. Hughes. It's been a while since she testified. I urge
15 you in your deliberations to request the transcript of her
16 testimony if it will be useful to you, because the defense
17 misrepresented several things that Dr. Hughes said on that
18 stand. For example, Dr. Hughes told you that sexual grooming,
19 while it happens with children, can also happen to young
20 adults. She talked to you about isolation, but she told you
21 that isolation is not a necessary tactic if its perpetrator,
22 like the defendant, has already established total control.
23 Think about those things as you deliberate and as you consider
24 what the defendant did to Claudia and to his other victims.

25 So by the time the defendant told Claudia to be a

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Rebuttal - Ms. Sassoon

1 prostitute, he had so thoroughly convinced her that she had no
2 other way out, no other way to save her blackened soul. The
3 defense talked about how sexually liberated Claudia supposedly
4 was. You saw -- and this was one of the most difficult moments
5 in the trial. You saw how humiliated Claudia was when her old
6 journal entry about sex with a police officer was placed in
7 front of her and the entire courtroom without even a pending
8 question from the attorney. The entry, the incident it
9 described, and others just like it were the product of years of
10 sexual degradation and abuse.

11 And where was this journal found? In the defendant's
12 warehouse. Not because he generously agreed to store people's
13 belongings. Claudia told you how he would seize her journals,
14 including on the night of terror, and he hoarded personal
15 journals for precisely this purpose, to humiliate and to
16 intimidate his victims, including in a court of law if they
17 ever dared testify against him. Not only has the defense
18 suggested to you that Claudia was a slut --

19 MS. LENOX: Objection.

20 MS. SASSOON: -- they told you that she's a liar.

21 THE COURT: Members of the jury, you're hearing
22 argument. There's no claim in this case with respect to the
23 good faith or bad faith of the lawyers involved. You're
24 hearing the rebuttal from the government to what it understands
25 to be the arguments of the defense.

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Rebuttal - Ms. Sassoon

1 Go ahead, Ms. Sassoon.

2 MS. SASSOON: Thank you.

3 They've told you that Claudia is a liar. Think about
4 that. They're claiming a woman over 30 years old took the
5 stand in federal court, under oath, and in public, and lied
6 because when she was a teenager, she embellished a story about
7 a driving test? This was not the high school cafeteria. When
8 Claudia got up there and described being hit with a pipe while
9 naked, having paid to have sex with a crack addict, that was
10 hardly the testimony of someone trying to impress her friends.
11 She was humiliated.

12 The defense wants you to believe the humiliating
13 things that Claudia disclosed about herself, but to disregard
14 the things she said about the defendant. They cannot have it
15 both ways. And what she said about herself, those painful,
16 embarrassing facts about the most intimate details of her life,
17 and what the defendant did to her, that also shows you she told
18 you the truth about the defendant. Claudia, just like the
19 other victims, had no motive to lie under oath in federal
20 court. If her motive was to lie to blame her choices on the
21 defendant, she would have told much better lies. She would
22 have said it was the defendant who took her to the BDSM club --

23 MS. LENOX: Objection.

24 THE COURT: Overruled.

25 MS. SASSOON: -- that the defendant posted all of her

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Rebuttal - Ms. Sassoon

1 advertisements, that the defendant is the one who hit her with
2 a pipe. But she didn't. The defense hasn't told you what
3 benefit Claudia would get from lying under oath, from
4 disclosing humiliation after humiliation, because there isn't
5 one.

6 MS. LENOX: Your Honor, misstating the burden of
7 proof.

8 MS. SASSOON: Your Honor, they suggested she lied
9 under oath and --

10 THE COURT: This is proper summation.

11 Members of the jury, you understand that the
12 government has the burden of proof beyond a reasonable doubt.
13 And nothing that Ms. Sassoon is saying is intended to suggest
14 that the government has anything less than the full burden of
15 proof.

16 MS. SASSOON: However much the defense has tried to
17 shame Claudia, to paint her as unlikeable, as untrustworthy,
18 none of those things can change the fact that every key part of
19 her testimony was heavily corroborated and consistent with
20 photos, videos, audio, text messages, emails, ledgers,
21 financial analysis, and other witness testimony. The question
22 for you as jurors is not whether you like Claudia, it's not
23 whether you approve of her behavior or her sex life; it is
24 whether she told you the truth about the defendant's crimes,
25 and you know that she did. She told you she worked as a

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Rebuttal - Ms. Sassoon

1 prostitute. You saw the Backpage ads. She told you she gave
2 nearly every cent to the defendant and Isabella. You saw the
3 text messages that confirmed this. You saw the ledgers from
4 the defendant's house and Mark Lubin's financial analysis that
5 showed the staggering amount of money going through accounts
6 controlled by the defendant and coming from Claudia. She told
7 you about the defendant's sexual grooming. And you can reject
8 this argument from the defense that this is not corroborated.
9 It's corroborated by the fact that the defendant sexually
10 groomed the other victims, including Santos, who was directed
11 to get oral sex by the shed from Isabella, by the grooming of
12 Felicia, and by Claudia's own journal entries, and emails,
13 including the email from 2012 where she refers to the incident
14 with Sam the Festool salesman, and the incident where the
15 defendant tied her up and committed an act of BDSM against her.
16 It's also confirmed by the photographs of her horrific injuries
17 to the back of her naked body that was found in the defendant's
18 iCloud. She told you that the defendant proudly showed her the
19 photo of Dan Levin in a dress with a dildo in his mouth, and,
20 as she put it, a pained expression on his face. You saw that
21 exact photograph that Claudia had not seen since 2013.

22 She told you that she lied to clients in desperation
23 to get more money to meet the defendant's ever-growing demands
24 for money. And you heard from Randy Levinson, who confirmed
25 just that. And you saw the email where she sold off her body

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Rebuttal - Ms. Sassoon

1 to Randy in perpetuity, just to get money for the defendant.
2 She told you about the defendant's relentless pressure, and you
3 saw video after video of interrogations. She told you that
4 Isabella and the defendant came to pick up the money, and you
5 saw the cell site maps that show the defendant and Isabella
6 meeting Claudia at her midtown hotels and at the White Castle
7 in New Jersey.

8 She told you that the defendant and Isabella targeted
9 her where it hurt her the most—her client information, her
10 relationship with her mother, her binge eating. And you saw
11 just those things on a list Isabella drafted for the Claudia
12 Drury website, and you saw screenshots from the website itself.

13 I want to pause here for a moment because there was so
14 much violence in this case that that has been a big focus of
15 the government's summation, but I expect you will hear from
16 Judge Liman that extortion can be committed through other ways.
17 Sex trafficking can be committed through other ways, such as
18 wrongful threats, just like those that were put up on the
19 website, threats to expose sexual indiscretions, threats of
20 reputational harm. If you find that these threats were made,
21 then the defendant is guilty of extortion and of sex
22 trafficking.

23 But Claudia also told you about the defendant's brutal
24 violence. The defense suggested to you that this was just
25 based on Claudia's say-so, that her testimony about violence is

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Rebuttal - Ms. Sassoon

uncorroborated. That just doesn't align with the evidence in this case. You heard the recording from March 9, 2014, and I believe these are Government Exhibits 4176A and 4175, where the defendant is brutally beating Santos with a hammer. Claudia was there. Claudia witnessed those horrific acts and those horrific threats. That contributed to her own climate of fear, her own fear of what the defendant was capable of and what he might do to her.

She told you about many instances of violence, culminating in the incident at the Gregory Hotel. The rustling of the plastic bag is not the defendant eating a hamburger. You can hear the fear in Claudia's voice immediately after the rustling of the bag. She is terrified. Go back to the recording. You'll hear it. And you'll hear, at 20 minutes and about 18 seconds, Claudia gasping for air.

The defense boldly asserted that there was no assault at the Gregory Hotel, but they can't get around the fact that Felicia corroborated Claudia in every important respect. So what did they tell you? They suggested that Felicia's testimony was completely fabricated. Think about that. Felicia Rosario got on that stand and made up a story about Claudia that somehow matched up to everything Claudia said? What the defense is suggesting is that the government planted Felicia's story. There's no other explanation. And that is outrageous, and there is nothing to support such an improper

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Rebuttal - Ms. Sassoon

1 and offensive suggestion.

2 Felicia's testimony was consistent with Claudia's
3 because you know they were both telling the truth—Felicia in
4 the defendant's own words. And Claudia's behavior the next
5 day, it is exactly the behavior you would expect from someone
6 who feared for her life and who thought the only way to put off
7 more violence and more threats was to get money for the
8 defendant, and fast.

9 The defense argued—and this was mostly yesterday—that
10 the defendant did not run a criminal enterprise, that he was
11 just sending money to loved ones and communicating with his
12 dad. Well, "the Ray family" was the defendant's own turn of
13 phrase, but you can call this criminal organization whatever
14 you want. Racketeering is a big word, but the concept is
15 simple. The bottom line is that the defendant was the leader
16 of a group that shared the common goal of committing crimes for
17 their own power and profit—crimes like extortion, forced labor,
18 sex trafficking, and obstruction.

19 Judge Liman I expect is going to give you a copy of
20 the indictment in this case. I encourage you to read Count
21 One, the racketeering conspiracy. The indictment lays out the
22 details of the defendant's criminal organization—its purposes,
23 its methods, and its pattern of crimes. I also expect Judge
24 Liman will instruct you that a person does not have to
25 participate in every aspect of an illegal scheme to be a

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Rebuttal - Ms. Sassoon

1 co-conspirator, and that criminals generally, as you might
2 expect, don't sit around a table signing a written contract of
3 their criminal agreement. Much is often left to unexpressed
4 understanding. What does that mean? Lawrence Grecco and Talia
5 Ray did not have to further Claudia's prostitution to have been
6 the defendant's co-conspirators in the enterprise. Sex
7 trafficking, that was Isabella's domain. And I would just
8 point out that the defense didn't question that Isabella was
9 part of this conspiracy. The proof of her involvement is
10 overwhelming. But for Talia and for Lawrence Grecco, it's
11 enough that they played a role, however big or however small,
12 in advancing some of the aims of the enterprise. They clearly
13 did.

14 Talia Ray, she was more than a mean girl. Mean girls,
15 they don't let you sit at the lunch table. They don't extort
16 you for tens of thousands of dollars. Talia's conduct
17 establishes that she was a member of this criminal
18 organization. She brought her friends into her dad's orbit and
19 she enforced the hierarchy of the group. She, her dad, and
20 Isabella were the chosen few. Her other former roommates were
21 the criminals. She participated in the extortion. Look at her
22 handwritten letters, her emails to Claudia. She accused her
23 friends of wrongdoing, and then she collected the money. She
24 participated in the defendant's wrongful threats that were
25 designed to get victims to pay. Just listen to her telling

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Rebuttal - Ms. Sassoon

1 Santos that he's going to prison for life.

2 She collected the profits, she funneled the money to
3 GoDaddy and into her own bank account. She helped with and she
4 benefited from the forced labor. She was there, and while her
5 roommates toiled inside, she enjoyed the benefits of the house.
6 She threatened Claudia about damages, she collected money from
7 Santos, and she helped obstruct justice, giving input on the
8 threats to Claudia after Claudia ran away. Loving her dad,
9 that doesn't change the fact that these are crimes that were a
10 core part of the criminal enterprise's mission.

11 The same is true of Lawrence Grecco. Any family tie
12 doesn't change the fact that he advanced the defendant's
13 efforts to obstruct justice. He joined the effort to discredit
14 potential witnesses, and he ultimately delivered an
15 unmistakable threat to Felicia Rosario, that her loyalty was
16 required, that he would risk jail to secure it. That is
17 obstruction of justice, and that was one of the goals of the
18 defendant's enterprise.

19 But I want to remind you that to find the defendant
20 guilty of racketeering conspiracy, you don't even need to find
21 that Talia Ray and Lawrence Grecco both participated or even
22 that the enterprise obstructed justice, even though it did.
23 One co-conspirator is enough. Isabella Pollok. Two acts of
24 criminal activity are enough. It would be enough, for example,
25 if you concluded that Isabella was the defendant's partner in

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Rebuttal - Ms. Sassoon

1 crime for the racketeering activity, and that together they
2 committed two acts of money laundering, or two acts of
3 extortion, or two of each. These are just examples, but you
4 have countless racketeering acts to choose from.

5 I want to talk to you about this argument that these
6 are not crimes because the victims could have or should have
7 left. This is besides the point, and it's not true. I expect
8 Judge Liman will tell you that the crimes like forced labor,
9 forced sexual services, and sex trafficking don't require that
10 a victim be locked up in a basement or acting with a gun
11 pointed at their head. A victim has no affirmative duty to
12 escape if the defendant placed them in fear of leaving or if
13 the victim felt as though she could not leave. That's exactly
14 what happened here.

15 And let's just take Yalitza as an example. Defense
16 counsel, during her summation, complains that the government is
17 describing everything Larry does as a manipulation and that he
18 called Yalitza and he really wanted her to come help her sister
19 and -- I wrote it down -- that Larry really wanted Yalitza's
20 support for the person he loved. That's defense counsel's
21 phrase. Of course this was a manipulation. Yalitza came down
22 to Pinehurst, concerned for her sister, and what she
23 encountered, in her words, was a living hell. This person who
24 told her that he wanted her to support her sister, then
25 brutally assaulted that sister in front of her eyes, day in and

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Rebuttal - Ms. Sassoon

1 day out, and then he blamed Yalitza for the fact that her
2 sister was childlike, mentally unwell, falling apart.

3 The defendant did things to and in front of his
4 victims to ensure that they were afraid to disobey, afraid to
5 leave, that any lifeline they had was destroyed. By the time
6 the extortion, the forced labor, and the sex trafficking were
7 underway, the defendant had cut off these victims from their
8 parents. You heard that. Yes, they may have had dinner in
9 2011. By 2014, Claudia wasn't speaking to her parents.
10 Maritza Rosario told you that she did not see her children for
11 seven years. This was not a neglectful mother. This was a
12 woman desperate to find a way to help her children, who plunged
13 herself into debt because her son told her that he would kill
14 himself if she did not come up with more money for the
15 defendant. Each of these victims came to a desperate place
16 where they felt they had nowhere to turn, nowhere to go, no way
17 to leave. And Yalitza, she only left because she was ready to
18 take her own life. She didn't have an exit plan. Her exit
19 plan was to take a bottle of Tylenol in the parking lot of a
20 Walmart.

21 It's also irrelevant that when the time came, when
22 they found the courage, when they were extended a helping hand,
23 that the victims did leave. The defense talked about how the
24 defendant didn't stop Yalitza, he didn't stop Santos. Well, by
25 the time they left, he could not care less about them, because

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1 Claudia was independently turning over hundreds of thousands of
2 dollars. He did not need Santos's ten grand anymore. Santos
3 was expendable to him—expendable until Claudia ran away and he
4 needed money again.

5 But when the defendant felt that Claudia, his prized
6 cash cow, was slipping from his grasp, he did act. He did try
7 to stop her. That was the Gregory Hotel. That night was his
8 effort to send a message that if Claudia ever broke away, she
9 would end up dead. And she got that message. And for a time,
10 it worked. But once Claudia left New York City, there was
11 little the defendant could do. He was no dummy. This is
12 someone who avoided a paper trail in his emails, in his
13 financials, but he was so desperate that he sent her a coded
14 threat. He and Isabella updated the Claudia Drury website with
15 a barrage of threats meant to make Claudia do anything to have
16 the content taken down. Remember the calendar entry,
17 April 6th, "Claudia runs away," and then all the notes that
18 followed with ideas for the website, drafts of threats to
19 Claudia. This was their effort to get her back in line. And
20 when the website didn't work, when his coded threat didn't
21 work, he had Isabella and Talia send one final threat to
22 Claudia, saying she was a vile criminal who belonged in prison.
23 They tried. But the organization's effort to bring Claudia
24 back into line simply failed. And why at that point did he not
25 turn her in to the police? Because he knew she was not a

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Rebuttal - Ms. Sassoon

1 criminal; he knew she was his victim.

2 I'd like to say a word to you about Felicia. Defense
3 counsel stood up and used words like "agency," "she was a
4 29-year-old woman," "she chose to have sex with strangers."
5 The defendant was trying to support her when he physically
6 restrained her and assaulted her in Pinehurst. Ignore these
7 euphemisms. Let's call it what it was—abuse, force. If the
8 defendant was concerned about Felicia, about supporting her,
9 why did he punch her in the face? Why did he make her have sex
10 with strangers?

11 The defense wants to ignore the consequences of the
12 violence that the defendant repeatedly inflicted. Of course
13 there was a connection between the abuse and the forced labor.
14 Look at the evidence. Yalitza was going to go down for two
15 days. She stayed for months, in a living hell, as violence was
16 inflicted, as she was brought to the police station, all in the
17 service of the defendant's constant demands that the work was
18 not done, that the work was being sabotaged, that there was
19 more work to do. And the fact that the defendant told Felicia
20 to be an escort, again, what stronger proof of the defendant's
21 sex trafficking of Claudia than that he tried to do the same
22 thing with someone else? The only reason it did not succeed is
23 not because Felicia had agency; it's because she made herself
24 so unhygienic, so undesirable, as she told you, so that there
25 was no way for her to continue with the defendant's sexual

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Rebuttal - Ms. Sassoon

1 demands.

2 You heard the jail calls, where the defendant asked
3 his dad to gather recordings of his victims, the emails of Dan
4 and Claudia describing violent thoughts, the recordings of
5 Claudia trying to set him up. That tells you everything. The
6 defendant made these recordings and he kept them precisely so
7 he could try to discredit his victims if they ever exposed him,
8 precisely because he knew he was extorting them, he was
9 victimizing them. You should reject the defense effort to
10 discredit these witnesses with the very collateral the
11 defendant created and collected for exactly this purpose, so
12 that his victims would never be believed, so that his victims
13 would never have the courage to speak up.

14 You saw these victims on the stand, their gentle
15 demeanors, their soft-spokenness. You heard them talk about
16 their insecurities at the start of college. The mental health
17 issues of these young people does not show that they're
18 unreliable. It shows that the defendant decided that they were
19 perfect targets. He moved into his daughter's college dorm
20 when these young people were at their most vulnerable, at a
21 time when they had moved away from their parents and were
22 trying to figure out what kind of adult to be. He saw the
23 self-doubt that came with being a teenager. He capitalized on
24 their depression and the loneliness that comes from being away
25 from home for the first time. He took all of these natural

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Rebuttal - Ms. Sassoon

1 feelings of growing up and then he convinced them that they
2 weren't normal young adults trying to find their way but
3 irredeemable criminals, just so he could better exploit them
4 for his benefit and the benefit of his criminal organization.

5 But the defendant, he underestimated the young men and
6 women who took the stand at this trial. He never thought they
7 would have the courage to take the stand and relive the darkest
8 moments of their lives, to face the abuser they had been taught
9 to revere and trained to fear, to suffer from the defense the
10 same false insults that they had endured for years—that they
11 are liars, a rapist, a scorned lover, a delinquent mother, and
12 more. But you saw their courage. You heard about the
13 suffering the defendant inflicted on them, how he tore their
14 world apart, treated them like slaves, made life a living hell.

15 The defendant did not commit these crimes because he
16 thought he was poisoned. He did it because he enjoyed being
17 cruel, because he has a unique appetite for stoking fear and
18 exerting control. He did it to build his criminal organization
19 and to cement his place at the top of it. The architecture of
20 the defendant's scheme, the scaffolding that held it up, was
21 control, manipulation, fear, and power. The organization's
22 lifeblood was the work of these victims, whether it was digging
23 trenches, having sex for money, or plunging the Rosario family
24 business into debt. But when the victims overcame the
25 defendant's control at different times and in different ways,

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1 the defendant's criminal organization fell apart. The
2 overwhelming evidence you have seen has finally exposed the
3 defendant's crimes—the extortion, the sex trafficking, the
4 forced labor, the money laundering, the obstruction, and the
5 decades-long leadership of a criminal organization. That's why
6 we're here today.

7 Time to deliberate, without fear, favor, sympathy, or
8 prejudice. There has been so much evidence. Take your time
9 with it. Don't lose sight of it. As you deliberate, let your
10 common sense be your compass, let that evidence be your north
11 star. If you follow that path, you will reach the only verdict
12 consistent with the evidence, consistent with justice—find him
13 guilty.

14 MR. KELLY: Your Honor, can we have a brief sidebar.

15 THE COURT: I was actually going to tell the members
16 of the jury that in a moment, I'm going to instruct you as to
17 the law. You've now heard the summations of the parties, and
18 each of the lawyers has made various statements of the law.
19 I'm going to remind you now, as I'll tell you in the
20 instructions that will follow in a minute, that the law that
21 you are to apply is what I state in my instructions and not
22 what any counsel has said.

23 My instructions will take some time for me to deliver,
24 so I'm going to meet with the parties at sidebar now for a
25 minute or two. I would suggest that you all take a stretch

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1 break, and if anybody needs a bottle of water, my courtroom
2 deputy will get it for you.

3 I'll see the parties at sidebar.

4 (At the sidebar)

5 MS. GLASHAUSSER: Your Honor, we have a number of
6 objections to the rebuttal defense that I would like your Honor
7 to give a curative instruction to.

8 First, the rebuttal argument at numerous points
9 denigrated the defense and defense counsel personally. At the
10 beginning, it started by making fun of defense counsel by
11 imitating her "breathy whisper." I now can't remember the
12 contents of that particular statement, but that was towards the
13 beginning.

14 MS. SASSOON: Larry believes. That was the context.

15 THE COURT: Is there more on this particular issue?

16 MS. GLASHAUSSER: Yes. About denigrating the defense.

17 THE COURT: We can go through each of your separate
18 objections, and then I'll hear from Ms. Sassoone.

19 MS. GLASHAUSSER: Thank you. So I'll go through the
20 list.

21 THE COURT: Just go through the denigration, make your
22 points so I can hear them all, and then I'll hear from
23 Ms. Sassoone.

24 MS. GLASHAUSSER: That sounds good. Thank you.

25 Our defense arguments were called ridiculous and a

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1 distraction.

2 The government said that defense counsel had the
3 "audacity" to misstate the law.

4 It was suggested that we did something improper by
5 showing Ms. Drury her journal entries, which had been admitted
6 into evidence, after lengthy argument and your Honor ruling
7 that it was appropriate to reference those.

8 The government stated that Ms. Lenox had
9 misrepresented Dr. Hughes's testimony, while Ms. Lenox had
10 clearly shown that testimony to the jury and was reading from
11 the actual testimony.

12 It was suggested that we had made an improper and
13 offensive suggestion by suggesting that Ms. Rosario had
14 tailored a portion of her testimony.

15 The government said that the defense "tried to shame
16 Ms. Drury" and later suggested at some length that the defense
17 had revictimized the people who were testifying.

18 I think there were actually more. I had a hard time
19 writing them all down. The tone of the argument was to
20 criticize defense counsel and the defense in a way that is
21 completely inappropriate.

22 MR. KELLY: To add on that one specific point, we were
23 told that the defense was a furtherance of the criminal
24 conspiracy, that merely cross-examining, questioning these
25 witnesses about their prior recollections and their prior acts

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1 was a furtherance of Mr. Ray's criminal activity towards these
2 witnesses.

3 THE COURT: I don't recall Ms. Sassoon saying that.

4 MR. KELLY: She said defense counsel not only
5 revictimized but forced them to relive through these instances
6 in the same way that Mr. Ray did.

7 THE COURT: I actually don't recall, Mr. Kelly, that
8 particular argument. I do recall the argument being made that
9 they had to relive it by going on the stand and that that tied
10 into the credibility. But we'll hear from Ms. Sassoon.

11 Is there more on this particular point?

12 MS. GLASHAUSSER: There were a number of instances
13 that I wrote down. I did a request for a curative instruction,
14 if you'd like to hear that portion now.

15 THE COURT: Sure.

16 MS. GLASHAUSSER: So I think a curative instruction is
17 appropriate, something to the effect of, that the jury has
18 heard the government's comment on the defense or defense
19 counsel's methods, that the Court instructs that defense
20 counsel's arguments and methods were appropriate, or proper or
21 consistent with what the defense is. I don't know. I'll stop
22 there. I don't have precise language, but something to that
23 effect.

24 MS. SASSOON: Your Honor, this is rebuttal summation.
25 It is standard and commonplace to describe arguments as

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1 ridiculous, as a distraction, to poke holes in arguments, to
2 point out where testimony was provided selectively. And those
3 instances, for example, with Dr. Hughes, I urged the jury to
4 simply go back and look at the transcript.

5 With respect to what happened with Claudia Drury and
6 the journal entry, I merely described accurately what happened
7 in court, which was she was made to read the journal entry and
8 then there was no question.

9 I don't think I mischaracterized anything the defense
10 has said. I've made impassioned arguments. I think that's
11 appropriate for rebuttal. And I don't think the curative
12 instruction is proper. At most, if your Honor wanted to, at
13 most, the government would agree to a curative instruction that
14 simply says, you know, the arguments of counsel are not
15 evidence and your recollection of what happened controls. But
16 I don't think I said anything objectionable.

17 THE COURT: I did give that curative instruction
18 during Ms. Sassoons summation, interrupting her and saying
19 that good faith or bad faith of the lawyers is not an issue in
20 this case. I'm also going to give a jury instruction with
21 respect to whether you like or dislike the lawyers. So --

22 MS. SASSOON: I'll also note that defense counsel
23 repeatedly interrupted my rebuttal with what I considered
24 meritless objections, and we did not object during her
25 summation to what was a legally impermissible statement of the

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1 law.

2 THE COURT: I'll go back to this in a moment.

3 MS. GLASHAUSSER: So with respect to the objections,
4 the government, a number of times, said that the defense called
5 Claudia a slut, a sexual deviant. Ms. Lenox literally said the
6 exact opposite in her summation. I don't have the --

7 THE COURT: Well, she said that she enjoyed sex. I
8 mean, this is argument. It's characterization of an argument.

9 MS. GLASHAUSSER: Your Honor, I have more to say on
10 that point. She said that precisely. She said that is a
11 normal, appropriate thing. She said it was not sexual
12 deviancy. She said that this was -- at numerous points, that
13 these conversations about sex --

14 THE COURT: You can respond, but make sure your points
15 are good ones.

16 What's your response?

17 MS. SASSOON: My response is this: Summation is
18 permitted to respond not just to -- the rebuttal is permitted
19 to respond not just to summation but what happened at this
20 trial. The cross examination of Claudia Drury plainly involved
21 what the government considered over-the-line slut shaming. And
22 the jury was here to hear the summation. They know you did not
23 use that exact word. To the extent that I described it in a
24 different way, there's no need for a curative instruction,
25 because the jury heard the summation.

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1 THE COURT: What's your next point?

2 MS. GLASHAUSSER: I apologize, your Honor. I have a
3 specific request with respect to that one. "Slut shaming" is
4 a -- the reason that the government is now saying it directly
5 to us, because it has power, and we did the opposite of that,
6 and --

7 THE COURT: Just tell me what your request is.

8 MS. GLASHAUSSER: Our request is to add to the defense
9 theory of the case that your Honor will read during the jury
10 instructions that the defense theory -- I can write out
11 specific language, but that there's nothing wrong or sexually
12 deviant related to sex work.

13 THE COURT: Your request is denied. It's belated, and
14 even if it weren't belated, I don't need to say that, because
15 it was perfectly appropriate rebuttal to make.

16 What's your next argument?

17 MS. GLASHAUSSER: The next argument is the government
18 vouched for evidence that did not exist and told the jury what
19 it would show. The government said that if a recording of
20 Glenn Ripa existed, it would show that the meeting was a sham.

21 THE COURT: That was a perfectly appropriate comment
22 because it was a comment with respect to the witness's
23 testimony, and you can each argue with respect to what the
24 witness testified, what you should take from the witness's
25 testimony. But it was a perfectly permissible inference to the

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1 jury to conclude that that meeting was a sham, just like it's a
2 perfectly appropriate inference for them to draw that it wasn't
3 a sham. That's argument.

4 MS. SASSOON: And the defense specifically made the
5 point in summation that it was somehow significant that there
6 was no recording. The government's entitled to respond to
7 these arguments and give an alternative interpretation.

8 THE COURT: The government didn't suggest that there
9 was evidence out there that wasn't presented in court.

10 So what's next?

11 MS. GLASHAUSSER: The next one is the government made
12 an argument that there was just one single email to Preet
13 Bharara and said that that showed that that undermined our
14 argument with respect to Mr. Ray reaching out to law
15 enforcement. The government knows that there are more emails.
16 Your Honor kept them out from the case. So for the government
17 to suggest that there is just one email misstates the factual
18 record that we all know here and implies to the jury that we're
19 making a mountain out of one little thing when in fact we all
20 know that that's not true.

21 MS. SASSOON: Your Honor, this is rebuttal.

22 THE COURT: The government is permitted to say, here's
23 the evidence, all the evidence that was received. The defense
24 has every opportunity to put on a witness who could support, in
25 the form of Mr. Ray -- Mr. Ray could have testified, listen, I

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1 did the following. They didn't put on Mr. Ray. You know, if
2 you had a basis for putting in the evidence, then you could
3 have put in other evidence. I ruled that there wasn't. That's
4 not an appropriate objection. The government is permitted to
5 argue what's in the evidence, and this is all that's in the
6 evidence.

7 What's next?

8 MS. GLASHAUSSER: But just to be clear, the government
9 did not limit itself to what was in the evidence. The
10 government said that that was the only thing that existed --

11 MS. SASSOON: That misstates the rebuttal.

12 MS. GLASHAUSSER: -- contrary to what --

13 MS. SASSOON: I said the defense has made much of a
14 single email. I didn't say this was the only email. I said
15 they were making a big deal of a single email, and then I
16 talked about that email.

17 MS. GLASHAUSSER: I believe there are other instances
18 of the government misstating the evidence. For example, there
19 was reference to videos of Mr. Ray punching Ms. Rosario in the
20 face. I do not believe that was something that any of us saw.
21 And --

22 MS. SASSOON: That's in evidence, your Honor.

23 THE COURT: Okay.

24 MR. KELLY: Mine was just -- there's a reference to:
25 Read the indictment. It lays out how he did this. We think

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1 there should be a curative instruction that the indictment is
2 not evidence.

3 THE COURT: I'm going to give that instruction. I
4 give my jury charge in a moment. They're going to hear that
5 precise thing in a moment.

6 MR. KELLY: Understood, but they also will be told
7 that the arguments of counsel are not the law, and the Court
8 issued that curative instruction after Ms. Lenox's summation,
9 so we think this is an important one and needs to be reiterated
10 twice.

11 MS. SASSOON: I didn't say --

12 MR. KELLY: You said it lays out how he --

13 THE COURT: They would be permitted to say, here's the
14 following way in which this was carried out.

15 MR. KELLY: Not in the indictment. They can say how
16 it's alleged in the indictment. They cannot say the indictment
17 lays out how it happens.

18 THE COURT: Okay. What's next?

19 MS. GLASHAUSSER: Those are all the things I've
20 written down. I just want to make clear that my request here,
21 other than a curative instruction, is for a mistrial.

22 THE COURT: Okay. One moment.

23 MS. SASSOON: Your Honor, can we have a brief recess,
24 to talk to a supervisor?

25 THE COURT: Sure. Let's take a 10-minute recess.

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1 (In open court)

2 THE COURT: Ladies and gentlemen, I'm going to give
3 you a brief recess before I give you my charge.

4 THE DEPUTY CLERK: All rise.

5 (Jury not present)

6 THE COURT: Be seated.

7 There is one change that I intend to make to the
8 charge in response to some argument that I heard from the
9 defense. It's on page 3 of the charge where I say: "Remember
10 that it's the duty of the lawyer to object when the other side
11 offers testimony or other evidence that the lawyer believes is
12 not properly admissible." Give me a moment. I'm going to tell
13 you the sentence that I'm going to read.

14 I intend to instruct the jury along the following
15 lines. This would be after I make the point that, "Because I
16 have permitted certain evidence to be introduced doesn't mean
17 that I've decided it's important or it's significant. That is
18 for you to decide." I intend to instruct the jury along the
19 lines of, "Likewise, it is the duty of each lawyer to present
20 the evidence that it believes best supports its arguments, even
21 if that evidence might be difficult to hear or difficult for
22 the witness. You are to draw no negative inference from a
23 lawyer presenting such evidence. She or he is simply doing
24 their job."

25 Does the defense have any objection to me adding that

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1 kind of language?

2 MS. LENOX: No, your Honor.

3 THE COURT: Okay. What about from the government?

4 MS. KEENAN: No, your Honor.

5 THE COURT: Okay. All right. Well, it's now 11:49.
6 We'll reconvene at noon, and I'll try to get through as much of
7 the jury charge as I can.

8 With respect to the motion for a mistrial that was
9 made at the sidebar a moment ago, I'm denying that motion. I
10 will hear from -- Ms. Sassoon said she wanted to consult with
11 somebody. I'll hear from the government if there's a different
12 view with respect to the curative instructions, and I'll inform
13 the parties of my views when we reconvene.

14 THE DEPUTY CLERK: All rise.

15 (Recess)

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1 THE COURT: I am prepared to give something of a
2 curative instruction, but I'll also hear from the government if
3 there is anything that they want me to know about their
4 consultations. Then I will tell you the form of the curative
5 instruction I am going to give.

6 Ms. Sassoон.

7 MS. SASSOON: Our view is that no instruction is
8 necessary, so we will wait to hear what the proposal is.

9 THE COURT: I don't view it as a proposal necessarily,
10 but I will hear the views of the parties.

11 MS. SASSOON: Understood.

12 THE COURT: The instruction I intend to give is along
13 the lines of the following: You heard the government use
14 strong language in its rebuttal summation. You should
15 understand that such language was in response to what the
16 government perceived to be the arguments made by the defense in
17 summation. It was not a comment about the lawyers in this
18 case. Your opinions of the lawyers in this case and their
19 behavior is to have no role in your deliberations.

20 In that regard, you heard the suggestion that the
21 defense called Ms. Drury a slut and engaged in slut shaming.
22 It did not and I instruct you to disregard that argument.

23 MS. SASSOON: We strongly object to that, your Honor.
24 We did not use the word slut shaming in the rebuttal or in the
25 summation. That was no way said by the government, for

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1 starters.

2 THE COURT: Does somebody have the language of the
3 summation?

4 MS. SASSOON: I have the language. That was never
5 said.

6 You should also reject the defense's effort to shame
7 Claudia as a slut who wanted to be a sex worker.

8 It is the government's view that that was completely
9 appropriate. Before I delivered this rebuttal, I had that
10 language approved by multiple people. And rebuttal is not just
11 an opportunity to react to defense summation. It's also to
12 react to the cross-examinations and argument made by
13 insinuation throughout the trial. Claudia Drury was in tears
14 during her cross-examination when being asked questions about
15 her sexual history, including before the defendant, that she
16 engaged in Skype sessions, that she had engaged in sexual
17 activity before she met the defendant, while she knew the
18 defendant, but was not with him, that she went to kink clubs
19 and BDSM.

20 The way the victim reacted to that, the way it landed
21 in court, the way the questions were asked, however much the
22 defense now wants to say they were so careful in summation, the
23 insinuations were made weeks ago and left lingering in this
24 trial for weeks and also was left as an attack on Claudia's
25 credibility.

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1 MS. LENOX: Your Honor, may I respond?

2 MS. SASSOON: I'm still talking.

3 The defense also showed her a note that she wrote in
4 2016 extolling the virtues of sex work. Sex work is a crime.
5 The idea that the defense is simply celebrating Claudia's
6 sexuality is just not how this was elicited at trial and the
7 tone of the cross-examination.

8 So to the extent that there is an instruction about
9 how people made passionate arguments or how there should be no
10 insinuation of an attack on the lawyers personally, I have no
11 objection to that, but I think it absolutely was fair argument
12 based on the cross-examination.

13 THE COURT: Do you have the language from the
14 summation, Ms. Glashausser?

15 MS. GLASHAUSSER: I believe Ms. Sassoon read out one
16 of the relevant portions where she did use the word shame and
17 slut in the same sentence. She didn't say shut shaming. She
18 said they shamed Claudia by saying she was a slut. I think
19 your Honor's instruction on that point is appropriate.

20 I just want to briefly correct the record with respect
21 to the questions on cross-examination. The government just
22 talked about various sexual topics that Ms. Drury testified
23 about. Those were topics that were brought out by the
24 government on direct. The government brought out that she had
25 engaged in BDSM, that she worked at a sex club and various

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1 other sexual -- that she worked at a sex club, and they went
2 into great detail about the BDSM.

3 We, in fact, objected to that detail, but the
4 government drew it out from Ms. Drury about what her manager
5 had done to her, various different things he had used. Those
6 were not questions asked by the defense.

7 With respect to the journal entry that your Honor had
8 approved us asking questions about, Ms. Lenox did ask Ms. Drury
9 some questions about that journal entry. Ms. Lenox then
10 perceived that Ms. Drury was uncomfortable with it there and
11 said that she would take it down and asked if she needed a
12 moment, so Ms. Lenox cut off her cross-examination in that
13 respect to be sensitive to the witness' reaction to that entry.

14 I think it is completely inappropriate to suggest that
15 the defense slut-shamed Ms. Drury when we did the exact
16 opposite, and Ms. Lenox's summation was very clear that we did
17 not view any of the things that Ms. Drury had testified about
18 relating to sex as deviant, that consenting adults could engage
19 in a wide range of sexual activity, that that is normal, and
20 Ms. Lenox specifically said that it is normal. We definitely
21 did not suggest that Ms. Drury was in any way a slut. We
22 suggested the exact opposite.

23 I think your Honor's instruction with respect to that
24 is appropriate.

25 THE COURT: What I will do is, I'll say, you heard the

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1 government use strong language in various adjectives in its
2 rebuttal summation, and I'll cut the specific reference to the
3 slut.

4 MS. LENOX: Your Honor, that specific reference is
5 directly what was said in rebuttal.

6 THE COURT: It actually was a comment with respect to
7 the general thrust of some portion of the defense argument.
8 But I am going to give the instruction. With respect to the
9 important part of the instruction, it is that your opinion of
10 the lawyers in this case and their behavior is to have no role
11 in your deliberations in that each lawyer is doing -- they are
12 just doing their job.

13 MS. GLASHAUSSER: Your Honor, respectfully, with
14 respect to that portion of the instruction, it does not get at
15 the problem with the rebuttal summation, which is that the
16 government said numerous times, in various different ways, that
17 the defense was acting improperly.

18 THE COURT: It didn't. And the thrust of the
19 summation was to characterize arguments that were made by the
20 defense as being ridiculous arguments and to point out how thin
21 the evidence was that the defense was arguing. It is up to the
22 jury, at the end of the day, to determine whether the evidence
23 is in or not. It's perfectly appropriate rebuttal summation.

24 Is there a further curative instruction you want me to
25 give? Tell me what it is, and I will consider it, and then we

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1 will bring the jury in.

2 MS. GLASHAUSSER: Yes, your Honor.

3 Instruct the jury that they heard the government's
4 comment about defense counsel's tactics, but defense counsel's
5 methods or tactics were proper.

6 We are not objecting to the government pointing out
7 things that related to the evidence or lack of evidence. We
8 are objecting to the way the government made it a personal
9 attack on defense counsel. It implied that the defense had
10 revictimized the victim simply by doing our job.

11 THE COURT: I understand that point. What I am going
12 to do is, I am going to highlight that the tactics and methods
13 of counsel on both sides of this case were proper. I'll leave
14 that to the jury. They were each representing their client
15 vigorously.

16 MS. SASSOON: Your Honor, I think Ms. Glashausser used
17 the language of, the arguments were proper. We don't think
18 it's appropriate for the judge --

19 THE COURT: I am referring to the tactics and the
20 methods of counsel, and the tactics and the methods of counsel
21 during the examinations were proper. Where they were not
22 proper I sustained objections.

23 Let's bring the jury in.

24 MS. SASSOON: I would just note, your Honor, that the
25 defense in their summation insinuated that the government

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1 suborned perjury from Felicia Rosario. That was the only fair
2 inference from the suggestion --

3 THE COURT: I agree with that, and it was a totally
4 improper argument.

5 MS. SASSOON: To the extent that we are talking about
6 that, we think that the curative instruction goes both ways.
7 In the same way that the original curative instruction was not
8 directed at the defense, although they were the ones to
9 misstate the law, we think it would be inappropriate to single
10 out the government.

11 THE COURT: I'm going to give it. You've got your
12 record.

13 (Jury present)

14 THE COURT: Members of the jury, you heard the
15 government use strong language in various adjectives in its
16 rebuttal summation just now. You should understand that such
17 language was in response to what the government perceived to be
18 the arguments made by the defense in summation. It was not a
19 comment about the lawyers in this case. Your opinions of the
20 lawyers in this case and their behavior is to have no role in
21 your deliberations. Each lawyer was doing his or her own job.
22 The tactics and methods of counsel during the examinations in
23 this case were proper. Each lawyer was simply doing their job.

24 Now it is my privilege to instruct you with respect to
25 the law.

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Charge

1 You have now heard all of the evidence in the case, as
2 well as the final arguments of the lawyers for the parties.

3 My duty at this point is to instruct you as to the
4 law. It is your duty to accept these instructions of law and
5 apply them to the facts as you determine them, just as it has
6 been my duty to preside over the trial and decide what
7 testimony and evidence is relevant under the law for your
8 consideration.

9 On these legal matters, you must take the law as I
10 give it to you. If any attorney has stated a legal principle
11 different from any that I state to you in my instructions, it
12 is my instructions that you must follow.

13 You should not single out any instruction as alone
14 stating the law, but you should consider my instructions as a
15 whole when you retire to deliberate in the jury room, and you
16 should know that you're going to be able to take a copy of
17 these instructions into the jury room.

18 Your final role is to pass upon and decide the fact
19 issues that are in the case. You, the members of the jury, are
20 the sole and exclusive judges of the facts. You pass upon the
21 weight of the evidence; you determine the credibility of the
22 witnesses; you resolve such conflicts as there may be in the
23 testimony; and you draw whatever reasonable inferences you
24 decide to draw from the facts as you have determined them. I
25 will later discuss with you how to pass upon the credibility,

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Charge

1 or believability, of the witnesses.

2 In determining the facts, you must rely upon your own
3 recollection of the evidence. The evidence before you consists
4 of the answers given by the witnesses, the testimony they gave,
5 as you recall it, and the exhibits that were received in
6 evidence. The evidence does not include questions. Only the
7 answers are evidence. But you may not consider any answer that
8 I directed you to disregard or that I directed be struck from
9 the record. Do not consider such answers.

10 You may also consider the stipulations of the parties
11 in evidence.

12 Since you are the sole and exclusive judges of the
13 facts, I do not mean to indicate any opinion as to the facts or
14 what your verdict should be. The rulings I have made during
15 the trial are not any indication of my views of what your
16 decision should be as to whether or not the guilt of the
17 defendant has been proven beyond a reasonable doubt.

18 I also ask you to draw no inference from the fact that
19 upon occasion I asked questions of certain witnesses. These
20 questions were only intended for clarification or to expedite
21 matters and certainly were not intended to suggest any opinions
22 on my part as to the verdict you should render or whether any
23 of the witnesses may have been more credible than any other
24 witness. You are expressly to understand that the Court has no
25 opinion as to the verdict you should render in this case.

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Charge

1 As to the facts, you are the exclusive judges. You
2 are to perform the duty of finding the facts without bias or
3 prejudice as to any party.

4 As I said, in determining the facts, you must rely
5 upon your own recollection of the evidence. What the lawyers
6 have said in their opening statements, their closing
7 statements, in their objections or in their questions is not
8 evidence. If your recollection of the facts differ from the
9 lawyers' statements, you should rely on your recollections. If
10 a lawyer made a statement during his or her opening or
11 summation and you find that there is no evidence to support the
12 statement, you should disregard the statement.

13 Again, you should bear in mind that a question put to
14 a witness is never evidence. It is only the answer that is
15 evidence. Nor is anything I may have said during the trial or
16 may say during these instructions with respect to a fact matter
17 to be taken in substitution for your own independent
18 recollection. What I say is not evidence.

19 Relatedly, do not conclude from any of my questions or
20 any of my rulings on objections or anything else I have done
21 during this trial that I have any view as to the credibility of
22 the witnesses or how you should decide the case.

23 In addition, remember it is the duty of the lawyer to
24 object when the other side offers testimony or other evidence
25 that the lawyer believes is not properly admissible.

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Charge

1 Therefore, you should draw no inference from the fact that
2 there was an objection to any evidence. Nor should you draw
3 any inference from the fact that I sustained or overruled an
4 objection. Simply because I have permitted certain evidence to
5 be introduced does not mean that I have decided on its
6 importance or significance. That is for you to decide.

7 Likewise, it is the duty of each lawyer is to present
8 the evidence that it believes best supports its argument, even
9 if that evidence might be difficult to hear or difficult for
10 the witnesses. You are to draw no negative inference from a
11 lawyer presenting such evidence. She or he is just doing their
12 job.

13 The personalities and conduct of counsel are also not
14 in any way at issue. If you formed any opinions of any kind
15 about any of the lawyers in the case, favorable or unfavorable,
16 whether you approved or disapproved of their behavior, those
17 opinions should not enter into your deliberations.

18 The fact that the prosecution is brought in the name
19 of the United States of America entitles the government to no
20 greater consideration than that accorded to any other party to
21 a litigation. By the same token, it is entitled to no less
22 consideration. All parties, whether government or individuals,
23 stand as equals at the bar of justice.

24 Now I will instruct you on the presumption of
25 innocence and the government's burden of proof in this case.

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Charge

1 The defendant has pleaded not guilty. By doing so, he denies
2 the charges in the indictment. Thus, the government has the
3 burden of proving the charges against the defendant beyond a
4 reasonable doubt. The defendant is presumed innocent. A
5 defendant does not have to prove his innocence. The
6 presumption of innocence was in the defendant's favor at the
7 start of the trial, continued in his favor throughout the
8 entire trial, is in his favor even as I instruct you now, and
9 continues in his favor during the course of your deliberations
10 in the jury room.

11 The government has the burden of proof in this case.
12 The presumption of innocence is removed as to the defendant if,
13 and only if, you, as members of the jury, are satisfied that
14 the government has sustained its burden of proving the guilt of
15 the defendant beyond a reasonable doubt.

16 The question that naturally arises is, what is
17 reasonable doubt? A reasonable doubt is a doubt based on your
18 screen, your judgment, your experience, and your common sense.
19 It is a doubt that a reasonable person has after carefully
20 considering all of the evidence. It is a doubt founded in
21 reason and arising out of the evidence in the case or the lack
22 of evidence.

23 Proof beyond a reasonable doubt does not mean proof
24 beyond all possible doubt. It is practically impossible for a
25 person to be absolutely and completely convinced of any

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Charge

1 disputed fact that, by its nature, cannot be proved with
2 mathematical certainty. The government's burden is to
3 establish guilt beyond a reasonable doubt, not all possible
4 doubt.

5 If, after a fair and impartial consideration of all
6 the evidence, you can candidly and honestly say that you do
7 have an abiding belief of the defendant's guilt, such a belief
8 as a prudent person would not hesitate to act upon in important
9 matters in the personal affairs of his or her own life, then
10 you have no reasonable doubt and, under such circumstances, it
11 is your duty to convict.

12 On the other hand, if, after a fair and impartial
13 consideration of all the evidence, you can candidly and
14 honestly say that you are not satisfied with the guilt of the
15 defendant, that you do not have an abiding belief of the
16 defendant's guilt, in other words, if you have such a doubt as
17 would reasonably cause a prudent person to hesitate in acting
18 in matters of importance in his or her own affairs, then you
19 have a reasonable doubt, and in that circumstance it is your
20 duty to acquit.

21 Now, there are two types of evidence that you may
22 properly use in deciding whether the defendant is guilty or not
23 guilty of the crimes with which he is charged.

24 One type of evidence is called direct evidence.
25 Direct evidence of a fact in issue is presented when a witness

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Charge

1 testifies to that fact based on what he or she personally saw,
2 heard, or otherwise observed through the five senses. The
3 second type of evidence is circumstantial evidence.

4 Circumstantial evidence is evidence that tends to prove a
5 disputed fact indirectly by proof of other facts.

6 There is a simple example of circumstantial evidence
7 that is often used in this courthouse. Assume that when you
8 came into the courthouse this morning the sun was shining and
9 it was a nice day outside. Also assume that the courtroom
10 shades were drawn and you could not look outside. Assume
11 further that as you were sitting here, someone walked in with
12 an umbrella that was dripping wet and then a few minutes later
13 somebody else walked in with a raincoat that was also dripping
14 wet.

15 Now, because you could not look outside the courtroom
16 and could not see whether it was raining, you would have no
17 direct evidence of that fact. But on the combination of facts
18 that I have asked you to assume, it would be reasonable and
19 logical for you to conclude that it was raining.

20 That is all there is to circumstantial evidence. You
21 infer on the basis of your reason, experience, and common sense
22 from one established fact the existence or the nonexistence of
23 some other fact.

24 The matter of drawing inferences from facts in
25 evidence is not a matter of guesswork or speculation. An

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1 inference is a logical, factual conclusion that you might
2 reasonably draw from other facts that have been proved.

3 Many material facts, such as a person's state of mind,
4 are not easily proved by direct evidence. Usually such facts
5 are established by circumstantial evidence and the reasonable
6 inferences you draw. Circumstantial evidence may be given as
7 much weight as direct evidence. The law makes no distinction
8 between direct and circumstantial evidence. The law simply
9 requires that before convicting a defendant, you must be
10 satisfied of the defendant's guilt beyond a reasonable doubt,
11 based on all of the evidence in the case.

12 Now, some of the exhibits admitted into evidence
13 include redactions of certain information. Redacted means that
14 part of the document or audio recording was taken out. There
15 is nothing unusual or improper about such redactions. You are
16 to concern yourself only with the part of the item that has
17 been admitted into evidence. You should not consider any
18 possible reason why the other part of it has been deleted.

19 Some of the exhibits that were admitted into evidence
20 were in the form of charts or summaries. I decided to admit
21 these charts and summaries in addition to the underlying
22 documents that they represent in order to save time and avoid
23 unnecessary inconvenience. But it is up to you to decide
24 whether the summary exhibits fairly and correctly reflect the
25 underlying testimony and documents they purport to summarize.

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1 To the extent that the summary exhibits conform to your
2 understanding of the underlying evidence, you may accept them.

3 To the extent that they do not, you should set them aside and
4 rely on the underlying evidence instead.

5 Audio and video recordings have been admitted into
6 evidence. You were provided with transcripts as an aid, but it
7 is the recordings that are the evidence. Whether you approve
8 or disapprove of the recording or interception of those
9 conversations may not enter into your deliberations. I
10 instruct you that these recordings were made in a lawful manner
11 and that no one's rights were violated and that the
12 government's use of this evidence was entirely lawful and it
13 was properly admitted into evidence at this trial. You must
14 therefore, regardless of any personal opinions, give this
15 evidence full consideration along with all the other evidence
16 in the case in determining whether the government has proved
17 beyond a reasonable doubt the guilt of the defendant.

18 If you wish to hear any of the tapes again or see any
19 of the transcripts of those recordings, they will be made
20 available to you during your deliberations.

21 In this case you have heard evidence in the form of
22 stipulations. A stipulation of testimony is an agreement among
23 the parties that, if called, a witness would have given certain
24 testimony. You must accept as true the fact that the witness
25 would have given the testimony. However, it is for you to

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Charge

1 determine the effect or weight to be given that testimony. You
2 also heard evidence in the form of stipulations that contain
3 facts that were agreed to be true. In such cases, you must
4 accept those facts as true, but it is also for you to determine
5 the effect or weight to give those agreed-upon facts.

6 If certain testimony or evidence was received for a
7 limited purpose, you must follow the limiting instruction I
8 have given and use the evidence only for the purpose I have
9 indicated.

10 You, as jurors, must decide this case based solely on
11 the evidence presented here within the four walls of the
12 courtroom. As I told you at the beginning of this case, you
13 must not conduct any independent research about this case, the
14 matters in this case, and the parties involved in the case. In
15 other words, you should not consult dictionaries or reference
16 materials, such as the Internet, websites, blogs, social media
17 outlets or look any other electronic tools to obtain
18 information about this case or to help you decide the case.
19 Please do not try to find out information from any source
20 outside the confines of this courtroom.

21 You must not talk to anyone about this case or use
22 these tools to communicate electronically with anyone about the
23 case. This includes your family and friends. You may not
24 communicate with anyone about the case on your cell phones,
25 through e-mail, instant messaging, text messaging, through any

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Charge

1 blog or websites, through any Internet chat room, or by way of
2 any other social networking platforms, including Facebook,
3 Twitter, Instagram, LinkedIn, Snapchat, and YouTube. If you
4 become aware that any other juror is violating this
5 instruction, you should immediately bring it to my attention
6 through my courtroom deputy, Mr. Fishman, but please do not
7 make it known to any other jurors.

8 I will repeat the instruction that I have given you
9 throughout the trial that you are to avoid all media coverage
10 of this case. Your verdict must be based solely on the
11 evidence presented in this courtroom in accordance with my
12 instructions. You must completely disregard any report that
13 you have read in the press, seen on television, heard on the
14 radio, or seen on the Internet. Indeed, it would be unfair to
15 consider such report, since they are not evidence, and the
16 parties have no opportunity of contradicting their accuracy or
17 otherwise explaining them away. In short, it would be a
18 violation of your oath as jurors to allow yourselves to be
19 influenced in any manner by such publicity.

20 You have heard testimony about evidence seized in
21 connection with certain searches conducted by law enforcement
22 officers. Evidence obtained from these searches was properly
23 admitted in this case and may be properly considered by you.
24 Such searches were entirely appropriate law enforcement
25 actions, and no one's rights were violated.

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Charge

1 Whether you approve or disapprove of how the evidence
2 was obtained should not enter in your deliberations, because I
3 instruct you that the government's use of the evidence is
4 entirely lawful.

5 Your verdict must be based solely upon the evidence
6 developed at trial or the lack of evidence.

7 It would improper for you to consider, in reaching
8 your decision as to whether the government has sustained its
9 burden of proof, any personal feelings you may have about the
10 defendant's race, religion, national origin, sex, or age. As I
11 have explained to you, all persons are entitled to the
12 presumption of innocence, and the government has the burden of
13 proof.

14 It would be equally improper for you to allow any
15 feelings you might have about the nature of the crimes charged
16 to interfere with your decision-making process.

17 To repeat, your verdict must be based exclusively upon
18 the evidence or the lack of evidence in the case.

19 I also caution you that, under your oath as jurors,
20 you cannot allow to enter in your deliberations any
21 consideration of the punishment that may be imposed upon the
22 defendant if he is convicted. The duty of imposing sentence in
23 the event of conviction rests entirely with the Court, and the
24 issue of punishment may not affect your deliberations as to
25 whether the government has proven the defendant's guilt beyond

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Charge

1 a reasonable doubt.

2 Under your oath as jurors, you are not to be swayed by
3 sympathy. You are to be guided solely by the evidence in this
4 case and the crucial question you must ask yourselves as you
5 sift through the evidence is, has the government proven the
6 guilt of the defendant beyond a reasonable doubt?

7 It is for you alone to decide whether the government
8 has proven the defendant is guilty of the crimes charged,
9 solely on the basis of the evidence and subject to the law as I
10 charge you. It must be clear to you that once you let fear or
11 prejudice or bias or sympathy interfere with your thinking,
12 there is a risk that you will not arrive at a true and just
13 verdict.

14 If you have a reasonable doubt as to the defendant's
15 guilt, you should not hesitate for any reason to find a verdict
16 of acquittal. But, on the other hand, if you should find that
17 the government has met its burden of proving the defendant's
18 guilt beyond a reasonable doubt, you should not hesitate,
19 because of sympathy or any other reason, to render a verdict of
20 guilty.

21 Now, the defendant, Lawrence Ray, is formally charged
22 in an indictment. An indictment is not evidence. As I
23 instructed you at the outset of the case, the indictment is a
24 charge or accusation. It merely describes the charges made
25 against a defendant. An indictment is a formal method of

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Charge

1 bringing a case into court for trial and determination by a
2 jury. It creates no presumption that a crime was committed,
3 and no inference of any kind may be drawn from an indictment.
4 You may not consider an indictment as any evidence of a
5 defendant's guilt. The fact that a defendant is the subject of
6 this indictment and is on trial here may not be used against
7 him in any way whatsoever.

8 Before you begin your deliberations, you will be
9 provided with a copy of the indictment. I will not read the
10 entire indictment to you at this time. Rather, I will first
11 summarize the offenses charged in the indictment and then
12 explain in detail the elements of each of the offenses.

13 The indictment contains 15 counts or charges. Each
14 count charges a separate offense or crime. Each count must
15 therefore be considered separately by you, and you must return
16 a separate verdict on each count.

17 Count One charges that: From at least in or about
18 2010, up to and including in or about 2020, Mr. Ray conspired,
19 or agreed with others, to conduct and participate, directly and
20 indirectly, in the conduct of the affairs of an enterprise
21 through a pattern of racketeering activity, which pattern of
22 racketeering activity included multiple acts involving
23 extortion, sex trafficking, forced labor, forced labor
24 trafficking, the use of interstate commerce to promote unlawful
25 activity, money laundering, witness tampering, and obstruction

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Charge

1 of justice, in violation of Title 18, United States Code,
2 Section 1962(d).

3 Count Two charges that: From at least in or about
4 2011, up to and including in or about 2019, Mr. Ray conspired
5 with others to commit extortion by using force and threats of
6 force to collect money from persons for supposed wrongdoing, in
7 violation of Title 18, United States Code, Section 1951.

8 Count Three charges that: From at least in or about
9 2011, up to and including in or about 2019, Mr. Ray and others
10 committed extortion by using force and threats of force to
11 collect money from Claudia Drury, for supposed wrongdoing, in
12 violation of Title 18, United States Code, Sections 1951 and 2.

13 Count Four charges that: From at least in or about
14 2011, up to and including in or about 2019, Mr. Ray committed
15 sex trafficking of Claudia Drury by force, threats of force, or
16 coercion, or any combination of such means, in violation of
17 Title 18, United States Code, Sections 1951 and 2.

18 Count Five charges that: From at least in or about
19 2011, up to and including in or about 2019, Mr. Ray conspired
20 with others to commit sex trafficking of Claudia Drury by
21 force, threats of force or coercion, or any combination of such
22 means, in violation of Title 18, United States Code, Section
23 1594.

24 Count Six charges that: From at least in or about May
25 2013, to at least in or about December 2013, Mr. Ray obtained

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Charge

1 forced labor from multiple persons, in violation of Title 18,
2 United States Code, Sections 1589 and 2.

3 Count Seven charges that: From at least in or about
4 May 2013, to at least in or about December 2013, Mr. Ray
5 trafficked multiple persons for the purpose of obtaining their
6 forced labor, in violation of Title 18, United States Code,
7 Sections 1590 and 2.

8 Count Eight charges that: From at least in or about
9 May 2013, to at least in or about December 2013, Mr. Ray and
10 others conspired to obtain forced labor from multiple persons,
11 in violation of Title 18, United States Code, Section 1594.

12 Count Nine charges that: From at least in or about
13 2014, to at least in or about 2019, Mr. Ray used facilities of
14 interstate commerce and traveled in interstate commerce to
15 promote, manage, and carry on a criminal business engaged in
16 sex trafficking and prostitution, in violation of Title 18,
17 United States Code, Sections 1952 and 2.

18 Count Ten charges that: From at least in or about
19 2011, to at least in or about 2019, Mr. Ray and others
20 laundered the proceeds of extortion and sex trafficking, in
21 violation of Title 18, United States Code, Sections 1956 and 2.

22 Counts Eleven through Fourteen charge that Mr. Ray
23 committed tax evasion in 201, 2017, 2018, and 2019, in
24 violation of Title 26, United States Code, Section 7201.

25 Count Fifteen charges that: From on or about October

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Charge

1 16, 2018, at a hotel in Manhattan, Mr. Ray committed an assault
2 with a dangerous weapon, at least in part to gain entrance to
3 and maintain any previous position in an enterprise engaged in
4 racketeering activity, in violation of Title 18, United States
5 Code, Section 1959(a)(3).

6 The indictment alleges that certain conduct occurred
7 on or about various dates or during various time periods. It
8 is not necessary, however, for the government to prove that any
9 conduct occurred exactly when the indictment alleges. As long
10 as the conduct occurred around any dates or within any time
11 periods the indictment alleges it occurred, that is sufficient.

12 You must return a separate verdict of guilty or not
13 guilty for each count charged. Whether you find the defendant
14 guilty or not guilty as to one offense should not affect your
15 verdict as to any other offense. You must analyze and evaluate
16 the evidence separately as to each count.

17 Now, I am going to give you the general definitions
18 for knowingly, intentionally, and unlawfully, conspiracy, and
19 aiding and abetting, terms that you will hear throughout this
20 instruction.

21 Before I instruct you on each of the counts
22 specifically, I will define some terms and concepts that will
23 come up repeatedly in these instructions. Specifically, I will
24 be discussing the concepts of both conspiring to commit various
25 crimes and aiding and abetting various crimes, so it makes

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Charge

1 sense to explain these concepts at the outset. Similarly, we
2 will discuss whether certain actions are taken knowingly,
3 intentionally or unlawfully, so I will also define these terms
4 before we discuss the counts. You can take these explanations
5 and definitions and apply them as I instruct you on each of the
6 counts.

7 One note. As you will learn, although the defendant
8 is charged with federal crimes in a federal court, some of the
9 counts incorporate some state penal laws as well. I will
10 discuss them in more detail later.

11 For now, you should be aware that Count One, which
12 concerns racketeering activity, incorporates some state penal
13 laws as well. They are called racketeering acts, and I will
14 discuss them in more detail later. However, I raise this
15 because there are slight differences between the definitions of
16 conspiracy in state law and federal law. I will provide you
17 with both. Please apply federal conspiracy law when
18 considering violations of federal law and state conspiracy law
19 when considering violations of state law for certain
20 racketeering acts alleged in Count One.

21 Throughout these instructions I will use the terms
22 unlawfully, knowingly, intentionally, and willfully.

23 Unlawfully simply means contrary to law. A defendant
24 does not need to have known that he was breaking any particular
25 law, but he must have been aware of the generally unlawful

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Charge

1 nature of his acts.

2 A person acts knowingly when he acts intentionally and
3 voluntarily, and not because of ignorance, mistake, accident,
4 or carelessness. Whether a defendant acted knowingly may be
5 proved by his conduct and by all the facts and circumstances
6 surrounding the case.

7 A person acts intentionally when he acts deliberately
8 and purposefully. That is, Mr. Ray's acts must have been the
9 product of his conscious, objective decision rather than the
10 product of a mistake or accident.

11 A person acts willfully when he acts intentionally and
12 purposely with the intent to do something that the law forbids;
13 that is, with the bad purpose to disobey or disregard the law.
14 It is not necessary that the person knew he was violating a
15 particular law; it is enough if he was aware that what he was
16 doing was in general unlawful. For the tax evasion counts,
17 willfully means something slightly different. I will instruct
18 you on that later.

19 Knowledge is a matter of inference from the proven
20 facts. Science has not yet devised a manner of looking into a
21 person's mind and knowing what that person is thinking. You
22 must consider the evidence and lack of evidence in making a
23 determination as to Mr. Ray's state of mind.

24 Before I move on to the counts of the indictment, I
25 want to instruct you on the concept of aiding and abetting.

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In connection with Counts One, Three, Four, Six, Seven, Nine, and Ten, Mr. Ray is charged with committing certain criminal acts and also with aiding and abetting the commission of those acts. Aiding and abetting is its own theory of criminal liability. In effect, it's a theory of liability that permits a defendant to be convicted of a specific crime if the defendant, while not himself committing the crime, assisted another person or persons in committing the crime.

Thus, Mr. Ray may be guilty of a substantive offense if he aid and abets, which means essentially that he assists another person in committing the offense. The principle that an aider and abettor of a crime is also liable applies both under federal law, where it is contained in a statute called Title 18, United States Code, Section 2, and under New York State law. The standards under federal and state law for aiding and betting liability are the same.

Under the federal aiding and abetting statute, whoever aids, abets, counsels, commands, induces, or procures the commission of an offense is punishable as a principal. You should give these words their ordinary meaning. A person aids or abets a crime if he knowingly does some act for the purpose of aiding or encouraging the commission of that crime, with the intention of causing the crime charged to be committed. To counsel means to give advice or recommend. To induce means to

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Charge

1 lead or move by persuasion or influence as to some answer or
2 state of mind. To procure means to bring about by unscrupulous
3 or indirect means. To cause means to bring something about, to
4 effect something.

5 As you can see, the first requirement is that another
6 person has committed the crime charged. Obviously, no one can
7 be convicted of aiding and abetting the criminal acts of
8 another if no crime was committed by the other person. But if
9 you do find that a crime was committed by another person, then
10 you must consider whether Mr. Ray aided or abetted the
11 commission of the crime.

12 I emphasize, however, that to aid and abet another to
13 commit a crime, it is necessary that Mr. Ray willfully and
14 knowingly associated himself in some way with the crime, and
15 that he willfully and knowingly sought by some act to help make
16 the crime succeed. Participation in a crime is willful if
17 action is taken voluntarily and intentionally or, in the case
18 of a failure to act, with the specific intent to fail to do
19 something the law requires to be done, that is to say, with a
20 bad purpose either to disobey or disregard the law.

21 An aider and abettor must have some interest in the
22 criminal venture and must take some action to assist or
23 encourage the commission of the crime. The mere presence of a
24 person where a crime is being committed, even coupled with
25 knowledge by that person that a crime is being committed, or

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Charge

1 the mere acquiescence by a person in the criminal conduct of
2 others, even with guilty knowledge, is not sufficient to
3 establish aiding and abetting.

4 To determine whether Mr. Ray aided and abetted the
5 commission of the crime with which he is charged, ask yourself
6 these questions: First, did he participate in the crime
7 charged as something he wished to bring about? Second, did he
8 associate himself with the criminal venture knowingly and
9 willfully? Third, did he seek by his actions to make the
10 criminal venture succeed?

11 If he did, then Mr. Ray is an aider and abettor and
12 therefore guilty of the offense. If he did not, then Mr. Ray
13 is not an aider and abettor and is not guilty as an aider and
14 abettor.

15 The law of conspiracy applies to Count One, the charge
16 of conspiracy to violate the RICO statute, and to Counts Two,
17 Five, and Eight, the charges of conspiracy to commit extortion,
18 sex trafficking, and forced labor.

19 A conspiracy is a kind of criminal partnership, an
20 agreement of two or more persons to join together to accomplish
21 some unlawful purpose.

22 Conspiracy simply means agreement, and the crime of
23 conspiracy to violate a federal law is an independent offense,
24 separate and distinct from the actual violation of any specific
25 federal laws. Such actual violations are called substantive

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Charge

1 crimes. You may find a defendant guilty of the crime of
2 conspiracy even if you find that the substantive crimes which
3 were the objects of the conspiracy were never actually
4 committed.

5 To find Mr. Ray guilty of participating in a
6 conspiracy, you must find the government has proven beyond a
7 reasonable doubt the following two elements:

8 First, that two or more persons entered the unlawful
9 agreement charged in the conspiracy count that you are
10 considering.

11 Second, that Mr. Ray unlawfully, intentionally, and
12 knowingly became a member of the conspiracy, that is, he
13 knowingly joined in the conspiracy and intentionally
14 participated in it.

15 To prove the existence of a conspiracy, the government
16 is not required to show that two or more people sat around a
17 table and entered into a solemn pact, orally or in writing,
18 stating that they have formed a conspiracy to violate the law
19 and spelling out all of the details. Indeed, it would be
20 extraordinary if there were such a formal document or specific
21 agreement.

22 Common sense tells you that when people agree to enter
23 into a criminal conspiracy, much is left to unexpressed
24 understanding. It is rare that a conspiracy can be proven by
25 direct evidence of an explicit agreement. Conspirators do not

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Charge

1 usually reduce their agreements to writing, nor do they
2 publicly broadcast their plans. By its very nature, a
3 conspiracy is almost always secret in its origin and execution.

4 It is enough if two or more persons in some way or
5 manner, through any contrivance, impliedly or tacitly, come to
6 a common understanding to violate the law. Express language or
7 specific words are not required to indicate assent or
8 attachment to a conspiracy. Nor is it required that you find
9 that any particular number of alleged coconspirators joined in
10 the conspiracy in order to find that a conspiracy existed. You
11 need only find that two or more people entered into an unlawful
12 agreement in order to find that a conspiracy existed.

13 In determining whether there has been an unlawful
14 agreement, you should consider the proven acts and conduct of
15 the alleged coconspirators that were taken to carry out the
16 apparent criminal purpose. The old adage, actions speak louder
17 than words, is applicable here. Often the only evidence that
18 is available is that of disconnected acts that, when taken
19 together in connection with one another, so a conspiracy or an
20 agreement to secure a particular result, such as
21 satisfactorily -- let me start again. Often the only evidence
22 that is available is that of disconnected acts that, when taken
23 together in connection with one another, show a conspiracy or
24 an agreement to secure a particular result just as
25 satisfactorily and conclusively as more direct proof.

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Charge

In deciding whether the conspiracy charged in the indictment existed, you may consider the evidence of the acts, conduct, and statements of Mr. Ray along with the evidence of the acts, conduct, and statements of those you determine the government has proven were coconspirators of Mr. Ray, and the reasonable inferences to be drawn from that evidence. When people enter into a conspiracy to accomplish an unlawful end, they become agents or partners of one another in carrying out the conspiracy. Accordingly, the reasonably foreseeable acts or statements of any member of the conspiracy committed in furtherance of the common purpose of the conspiracy are deemed, under the law, to be the acts and statements all members of the conspiracy, and all members of the conspiracy are responsible for such acts or statements. This rule applies even though such acts or statements were not made or committed in Mr. Ray's presence or were made or committed without his knowledge.

(Continued on next page)

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1 THE COURT: Before you may consider the acts or
2 statements of a co-conspirator in deciding the guilt of
3 Mr. Ray, however, you must first determine that the acts were
4 committed or statements were made during the existence of, and
5 in furtherance of, the alleged unlawful scheme. If the acts
6 were done or the statements were made by someone whom you do
7 not find to have been a member of the conspiracy, or if they
8 were not in furtherance of the charged conspiracy, they may not
9 be considered by you in deciding whether Mr. Ray is guilty of
10 conspiracy.

11 Proof concerning the accomplishment of the object of a
12 conspiracy may be persuasive evidence that the conspiracy
13 itself existed, but it is not necessary, as I have said, that
14 the conspiracy actually succeeded for you to conclude that it
15 existed. In deciding whether the conspiracy charged existed,
16 you may consider all the evidence of the acts, conducts, and
17 statements of the alleged co-conspirators and the reasonable
18 inferences to be drawn from that evidence.

19 It is sufficient to establish the existence of the
20 conspiracy if, after considering all of the relevant evidence,
21 you find beyond a reasonable doubt that the minds of at least
22 two alleged conspirators met in an understanding way, and that
23 they agreed, as I have explained, to work together to
24 accomplish an object or objective of the conspiracy.

25 It is not necessary for the government to show that an

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1 alleged co-conspirator was fully informed as to all the details
2 of the conspiracy for you to infer knowledge on that person's
3 part. To have guilty knowledge, a person need not know the
4 full extent of the conspiracy, or all of the activities of all
5 of its participants. It is not necessary for a person to know
6 every other member of the conspiracy. In fact, a person may
7 know only one other member of the conspiracy and still be a
8 co-conspirator. Nor is it necessary for a person to receive
9 any monetary benefit from his or her participation in the
10 conspiracy or to have a financial stake in the outcome. It is
11 enough if that person participated as a conspirator unlawfully,
12 intentionally, and knowingly, as I have defined those terms.

13 The duration and extent of a person's participation
14 also has no bearing on the issue of that person's guilt. An
15 alleged co-conspirator need not have joined the conspiracy at
16 the outset but may have joined it for any purpose at any time
17 in its progress and will still be held responsible for all that
18 was done before he or she joined and all that was done during
19 the conspiracy's existence while he or she was a member. Each
20 member of a conspiracy may perform separate and distinct acts
21 and may perform them at different times. Some conspirators
22 play major roles, others play minor roles. An equal role is
23 not what the law requires. Even a single act may be sufficient
24 to draw a person within the ambit of the conspiracy.

25 I want to caution you, however, that the mere

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1 association by one person with another does not make that
2 person a member of the conspiracy, even when coupled with
3 knowledge that a conspiracy is taking place. Mere presence at
4 the scene of a crime, even coupled with knowledge that a crime
5 is taking place, is not sufficient to support a conviction. In
6 other words, knowledge without participation is not sufficient.
7 What is necessary is that a defendant has participated in the
8 conspiracy with knowledge of its unlawful purposes and with
9 intent to aid in the accomplishment of its unlawful objectives.

10 The defendant, with an understanding of the unlawful
11 character of the conspiracy, must have intentionally engaged,
12 advised, or assisted in the conspiracy for the purpose of
13 furthering an illegal undertaking. The defendant thereby
14 becomes a knowing and willing participant in the unlawful
15 agreement—that is to say, he becomes a conspirator.

16 A conspiracy, once formed, is presumed to continue
17 until either its objective is accomplished or there is some
18 affirmative act of termination by its members. So, too, once a
19 person is found to be a member of a conspiracy, that person is
20 presumed to continue being a member in the venture until the
21 venture is terminated, unless it is shown by some affirmative
22 proof that the person withdrew and disassociated himself from
23 it.

24 Now I have one more short instruction before I take
25 our lunch break. It has to do with the state law of

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1 conspiracy, and it's a short instruction, but it's an important
2 one.

3 As I told you earlier, we will also discuss some state
4 penal laws. The state law of conspiracy in New York differs
5 from the federal law of conspiracy.

6 In particular, in order for the government to prove
7 beyond a reasonable doubt that a person conspired to commit a
8 crime under New York State law, the government must show the
9 following:

10 First, that the individual agreed with one or more
11 other persons to engage in or cause the performance of the
12 crime;

13 Second, that the individual did so with the intent
14 that such crime be performed; and

15 Third, that the individual, or one of the people with
16 whom he agreed to conspire or cause the performance of the
17 conduct committed an overt act in furtherance of the
18 conspiracy.

19 The term "intent" under New York conspiracy law has
20 its own special meaning. "Intent" means conscious objective or
21 purpose. That is, a person acts with intent that crime be
22 committed when his conscious objective or purpose is that the
23 crime should occur. Under New York law, the government must
24 also prove that one of the conspirators committed an overt act
25 in furtherance of the conspiracy. The agreement to engage in

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1 or cause the performance of a crime is not itself an overt act.
2 The overt act must be an independent act that tends to carry
3 out the conspiracy. The overt act can be, but need not be, the
4 commission of the crime that was the object of the conspiracy.

5 Note that under state law, unlike the federal law that
6 I have described to you, an overt act is an element of
7 conspiracy. Accordingly, when considering an intended
8 racketeering act that is alleged to be a violation of state
9 conspiracy laws, consider whether Mr. Ray agreed that he or a
10 co-conspirator would commit an overt act in furtherance of that
11 racketeering act and that an overt act in furtherance of the
12 racketeering act took place. However, when considering either
13 an intended racketeering act that is alleged to be a violation
14 of federal conspiracy laws—or considering the conspiracies
15 charged in Counts One, Two, Five, and Eight—you need not find
16 an overt act.

17 Members of the jury, that concludes some of my general
18 instructions. We're going to take a lunch break now and then
19 we'll return for instructions with respect to racketeering, the
20 substantive crimes, and some remaining instructions.

21 It's now 1:10. What I'd like to do is take a break
22 until 1:45. That will ensure that I get through my
23 instructions before we break for the day. If any of the jurors
24 has a problem with that short a lunch break, just let my deputy
25 know and we'll take a little bit of a longer lunch break, but

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1 I'd like the lunch break to be that short because I also want
2 to give you some stretch breaks during the remainder of my
3 instruction.

4 THE DEPUTY CLERK: All rise.

5 (Jury not present)

6 THE COURT: Be seated.

7 Anything further from the government before we take
8 our lunch break?

9 MS. SASSOON: No. Thank you, your Honor.

10 THE COURT: From the defense?

11 MS. LENOX: No. Thank you.

12 THE COURT: All right. Everybody should try to get
13 here, please, by 1:40, because if the jury is ready, I'm
14 bringing them in even if counsel is not at their table.

15 (Luncheon recess)

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1 AFTERNOON SESSION

2 1:45 p.m.

3 (In open court; jury present)

4 THE COURT: Be seated.

5 I will now start with some general instructions
6 regarding the charge of racketeering conspiracy.7 Count One alleges that Mr. Ray conspired to violate
8 Section 1962(c) of Title 18 of the United States Code, commonly
9 known as the RICO statute, which stands for "Racketeering
10 Influence and Corrupt Organizations." This means that the
11 defendant has been charged with conspiracy to conduct or
12 participate in the affairs of an enterprise through a pattern
13 of racketeering activity. "Racketeering," as used in this
14 statute, is a purely technical term that is defined
15 specifically for this statute. The word "racketeering" has
16 certain implications in our society. Use of that term in that
17 statute and in this courtroom should not be regarded as having
18 anything to do with your determination of whether the guilt of
19 this defendant has been proven. The term is only a word used
20 by Congress to describe the statute. You should put out of
21 your mind whatever meaning the term may have for you in
22 ordinary English, and the term should not influence your
23 determination of whether the government has proven Mr. Ray
24 guilty beyond a reasonable doubt on Count One or any other
25 count. All that matters is whether the government has proved

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1 beyond a reasonable doubt each of the elements that make up a
2 violation of this statute, as I'm going to define them for you.

3 The statute that the indictment charges that Mr. Ray
4 conspired to violate provides, and I quote:

5 "It shall be unlawful for any person employed by or
6 associated with any enterprise engaged in, or the activities of
7 which affect, interstate or foreign commerce, to conduct or
8 participate, directly or indirectly, in the conduct of such
9 enterprise's affairs through a pattern of racketeering
10 activity."

11 Mr. Ray is charged in Count One with participating in
12 a conspiracy to violate this substantive RICO statute, in
13 violation of Title 18 of the United States Code,
14 Section 1962(d), which states: "It shall be unlawful for any
15 person to conspire to violate any of the provisions of the RICO
16 laws."

17 Count One charges that Mr. Ray participated in a
18 conspiracy whose object was to conduct and participate in the
19 conduct of the racketeering enterprise through a pattern of
20 racketeering activity. Count One defines the enterprise as a
21 criminal organization whose members and associates engaged in,
22 among other things, acts involving extortion, sex trafficking,
23 forced labor, force labor trafficking, the use of interstate
24 commerce to promote unlawful activity, money laundering,
25 witness tampering, and obstruction of justice, in and around

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1 the Southern District of New York and elsewhere.

2 In order to prove that Mr. Ray is guilty of the
3 racketeering conspiracy charged in Count One, the government
4 must establish beyond a reasonable doubt each of the following
5 elements of the offense:

6 First, that there was an agreement among two or more
7 persons to participate in an enterprise that would affect
8 interstate commerce through a pattern of racketeering activity;

9 Second, that Mr. Ray knowingly and wilfully became a
10 member of that agreement; and

11 Third, that Mr. Ray or another member of the
12 conspiracy agreed to commit two racketeering acts, as I will
13 define that term for you.

14 The first element the government must establish beyond
15 a reasonable doubt is that there was a conspiracy among two or
16 more persons to participate in an enterprise that would affect
17 interstate commerce through a pattern of racketeering activity.

18 As I previously instructed, a "conspiracy" is an
19 agreement among two or more persons to achieve an unlawful
20 object. To show a conspiratorial agreement, the government is
21 not required to prove that two or more persons entered into a
22 solemn pact, but only that two or more persons explicitly or
23 implicitly came to an understanding to achieve the specified
24 unlawful object, whether or not they were successful.

25 In this case, the alleged unlawful object is the

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1 formation of an enterprise whose activities would affect
2 interstate commerce through a pattern of racketeering activity.
3 Let me define these terms for you.

4 For the purposes of this case, an "enterprise" is a
5 group of people who have associated together for a common
6 purpose of engaging in a course of conduct over a period of
7 time. This group of people, in addition to having a common
8 purpose, must have an ongoing organization, either formal or
9 informal, and it must have a core of personnel who function as
10 a continuing unit. This group of people does not have to be a
11 legally recognized entity, such as a partnership or
12 corporation. This group may be organized for a legitimate and
13 lawful purpose, or it may be organized for an unlawful purpose.

14 The definition of "interstate commerce" is the
15 movement of goods, services, money, and individuals between
16 states, or between states and the District of Columbia or a US
17 territory.

18 Although the government must prove that the enterprise
19 did or would affect interstate commerce, the effect need not be
20 substantial. A minimal effect is enough. It's sufficient, for
21 example, that in the course of the racketeering activities,
22 members of the enterprise traveled interstate, or used
23 telephone facilities interstate. Interstate commerce includes
24 the movement of goods, services, money, and individuals between
25 states. The commerce affected or potentially affected need not

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1 be lawful commerce. Thus, if you find that the alleged
2 racketeering enterprise engaged in, for example, sex
3 trafficking that affected interstate commerce, you may find
4 that the government satisfied this element, even if the primary
5 activities of the enterprise all occurred within a single
6 state.

7 The government is not required to prove that Mr. Ray
8 knew that interstate commerce was or would be affected. All
9 that is necessary is that you find beyond a reasonable doubt
10 that the activities of the enterprise affected or would affect
11 interstate commerce in some minimal way.

12 Finally, to prove that the acts constituted a pattern
13 of racketeering activity, the government must prove that the
14 acts of racketeering are related to each other and that they
15 amount to or pose a threat of continued criminal activity. It
16 is not sufficient for the government to prove only that two of
17 the racketeering acts I will describe were committed. A series
18 of disconnected acts does not constitute a pattern, and a
19 series of disconnected crimes does not constitute a pattern of
20 racketeering activity, nor do they amount to or pose a threat
21 of continued racketeering activity. To prove that the acts of
22 racketeering are related, the government must prove that the
23 acts had the same or similar purposes, results, participants,
24 victims, or methods of commission, or that they are otherwise
25 interrelated by distinguishing characteristics and are not

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1 isolated events. To prove that the racketeering acts amount to
2 or pose a threat of continued racketeering activity, the
3 government must establish either that there were a series of
4 related predicate acts that extended over a substantial period
5 of time or that there is a threat of continued activity, for
6 example, because the acts are part of a long-term association
7 that exists for criminal purposes, or that they are a regular
8 way of conducting the affairs of the enterprise.

9 The second element that the government must prove
10 beyond a reasonable doubt with respect to Count One is that at
11 some point defendant knowingly and wilfully became a member of
12 the conspiracy charged in the indictment.

13 If you are satisfied that the conspiracy charged in
14 the indictment existed, you must next ask yourselves who the
15 members of that conspiracy were. In deciding whether Mr. Ray
16 was, in fact, a member of the conspiracy, you should consider
17 whether Mr. Ray knowingly and wilfully joined the conspiracy.
18 Did he participate in it with knowledge of its unlawful purpose
19 and with the specific intention of furthering its objectives as
20 an associate or worker?

21 In that regard, it has been said that in order for a
22 defendant to be deemed a participant in a conspiracy, he must
23 have had a stake in the venture or its outcome. You are
24 instructed that, while proof of a financial interest in the
25 outcome of a scheme is not essential, if you find that Mr. Ray

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had such an interest, that is a fact that you may properly consider in determining whether or not Mr. Ray was a member of the conspiracy charged in the indictment.

As I mentioned a moment ago, before Mr. Ray can be found to have been a conspirator, you must first find that he knowingly joined in the unlawful agreement or plan. The key question, therefore, is whether Mr. Ray joined the conspiracy with an awareness of the basic aims and purposes of the unlawful agreement.

It is important to note that Mr. Ray's participation in the conspiracy must be established by independent evidence of his own acts or statements, as well as those of the other alleged conspirators, and the reasonable inferences that may be drawn from them.

A person's knowledge is a matter of inference from the facts proved. In that connection, I instruct you that to become a member of the conspiracy, that person need not have known the identities of each and every other member, nor need he have been apprised of all of their activities. Moreover, that person need not have been fully informed as to all of the details, or the scope, of the conspiracy in order to justify an inference of knowledge on his part.

I want to caution you that mere knowledge or acquiescence, without participation, in the unlawful plan is not sufficient. Moreover, the fact that the acts of a person,

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1 without knowledge, merely happen to further the purposes or
2 objectives of the conspiracy, does not make that person a
3 member. More is required under the law. What is necessary is
4 that the person must have participated with knowledge of at
5 least some of the purposes or objectives of the conspiracy and
6 with the intention of aiding in the accomplishment of those
7 unlawful ends.

8 In sum, Mr. Ray, with an understanding of the unlawful
9 character of the conspiracy, must have intentionally engaged,
10 advised, or assisted in it for the purpose of furthering the
11 illegal undertaking. If you find that the government has
12 proven beyond a reasonable doubt that he has done so, then he
13 thereby becomes a knowing and willing participant in the
14 unlawful agreement—that is to say, a conspirator.

15 The third element the government must prove beyond a
16 reasonable doubt is that Mr. Ray or another member of the
17 conspiracy agreed to commit two racketeering acts.

18 The focus of this element is on Mr. Ray's agreement to
19 participate in the objectives of the enterprise to engage in a
20 pattern of racketeering activity and not on Mr. Ray's agreement
21 to commit the individual criminal acts. For a racketeering
22 activity, the government must prove that Mr. Ray participated
23 in some manner in the overall objectives of the conspiracy, and
24 that the conspiracy involved, or would have involved, the
25 commission of two racketeering acts. The government is not

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1 required to prove either that Mr. Ray agreed to commit two
2 racketeering acts or that he actually committed two such acts,
3 although you may conclude that he agreed to participate in the
4 conduct of the enterprise from proof that he agreed to commit
5 or actually committed such acts.

6 For the purposes of this count, the indictment alleges
7 nine types of racketeering acts, which I will instruct you on
8 shortly. Again, the government must prove that two
9 racketeering acts were, or were intended to be, committed as
10 part of the conspiracy, although it need not prove that Mr. Ray
11 committed or agreed to commit any of these acts, as long as the
12 government proves that he knew about and agreed to facilitate
13 in some manner the overall objective of the conspiracy.

14 I will now explain the law governing the nine types of
15 racketeering acts that the government has alleged. In order to
16 convict Mr. Ray of the racketeering conspiracy offense, your
17 verdict must be unanimous as to which type or types of
18 predicate racketeering activity Mr. Ray agreed, explicitly or
19 implicitly, would be committed, either by himself or a
20 co-conspirator. For example, at least two acts of the
21 following types: extortion, under either federal or state law;
22 sex trafficking; forced labor; forced labor trafficking; the
23 use of interstate commerce to promote unlawful activity; money
24 laundering; witness tampering; obstruction of justice. If you
25 find that the conspiracy did not exist, or that it did not

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1 affect interstate commerce, or that Mr. Ray was not a member of
2 the conspiracy or enterprise, you should not consider whether
3 the government has established any of the racketeering acts.

4 Continuing on with Count One, I'm now going to explain
5 to you the specific types of racketeering acts that are alleged
6 in the indictment. I'm going to go through them one by one.

7 As to the racketeering activity alleged here, Count
8 One alleges that the following categories of acts and offenses
9 were committed, or were intended to be committed, as part of
10 the conspiracy:

11 Acts involving extortion and conspiracy to commit
12 extortion in violation of federal law, specifically the Hobbs
13 Act, Title 18, United States Code, Sections 1951 and 2;

14 Acts involving extortion, conspiracy to commit
15 extortion, and attempted extortion, in violation of New York
16 State Penal Law Sections 155.05(2), 155.40(2), 110.00, and
17 20.00;

18 Acts involving sex trafficking by force or coercion in
19 violation of federal law, specifically Title 18, United States
20 Code, Sections 1591 and 2;

21 Acts involving forced labor in violation of federal
22 law, specifically Title 18, United States Code, Sections 1589
23 and 2;

24 Acts involving forced labor trafficking in violation
25 of federal law, specifically Title 18, United States Code,

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1 Sections 1590 and 2;

2 Acts involving the use of interstate commerce to
3 promote unlawful activity, in violation of federal law,
4 specifically Title 18, United States Code, Sections 1952 and 2;

5 Money laundering, in violation of federal law,
6 specifically, Title 18 United States Code, Sections 1956 and 2;

7 Acts involving witness tampering, in violation of
8 federal law, specifically Title 18, United States Code,
9 Sections 1512 and 2; and

10 Acts involving the obstruction of justice in violation
11 of federal law, specifically Title 18, United States Code,
12 Sections 1503 and 2.

13 In a moment, I will instruct you on the substantive
14 law of each of these offenses. Before I do, let me remind you
15 that the government must prove beyond a reasonable doubt that
16 Mr. Ray agreed that either he or a co-conspirator would commit
17 two acts in violation of these statutes within 10 years of each
18 other as part of the charged RICO conspiracy. As I have said,
19 the government need not prove that Mr. Ray himself committed or
20 agreed to personally commit any of these offenses.

21 You will also note that for some of the charged
22 categories of predicate offenses, the indictment charges a
23 violation of more than one statute. I instruct you that, in
24 order to find that a given predicate offense was an object of
25 the charged RICO conspiracy, you need not find that the object

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1 of the conspiracy involved violations of all the listed
2 statutes; rather, you need only find that the object of the
3 conspiracy involved the violation of at least one of the
4 specified statutes, but you must be unanimous as to which one
5 or ones.

6 You'll also note as to some of these offenses, I'm
7 going to use the term "aiding and abetting," which I have
8 already defined for you.

9 The indictment alleges that one of the categories of
10 criminal violations that was committed or was intended to be
11 committed as part of the RICO conspiracy charged in Count
12 One—that is, one of the predicate acts—was violations of the
13 Hobbs Act, Title 18, United States Code, Section 1951. The
14 Hobbs Act makes it illegal to interfere with commerce through
15 extortion. Section 1951 provides, in relevant part:

16 "Whoever in any way or degree obstructs, delays, or
17 affects commerce or the movement of an article or commodity in
18 commerce, by . . . extortion or attempts or conspires so to do,
19 or commits or threatens physical violence to any person or
20 property in furtherance of a plan or purpose to do anything in
21 violation of this section [commits a crime]."

22 In order to meet its burden of proving that Mr. Ray or
23 a co-conspirator committed extortion, the government must
24 establish beyond a reasonable doubt each of the following
25 elements:

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1 First, that the individual—that is, Mr. Ray, or a
2 co-conspirator—wrongfully obtained the property of another;

3 Second, that the individual obtained this property
4 with the victim's consent, but that this consent was compelled
5 by the wrongful use or threat of force, violence, or fear; and

6 Third, that as a result of the individual's actions,
7 interstate commerce, or an item moving in interstate commerce,
8 was delayed, obstructed, or affected in any way or degree.

9 Now let me explain these elements in more detail.

10 The first element that the government must prove
11 beyond a reasonable doubt is that Mr. Ray or a co-conspirator
12 wrongfully obtained or took the personal property of another,
13 or from the presence of another. The term "property" includes
14 money and other tangible and intangible things of value that
15 are capable of being transferred from one person to another.

16 The second element the government must prove beyond a
17 reasonable doubt is that Mr. Ray or a co-conspirator wrongfully
18 took this property by actual or threatened force, violence, or
19 fear of injury or economic harm, whether immediately or in the
20 future.

21 It is not necessary that force, violence, and fear all
22 were used or threatened. It is enough if any of them were used
23 or threatened.

24 Now let me turn for a moment to the concept of threat.
25 Threats need not be direct. They may be veiled threats made by

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suggestion, implication, or inference, though such inference on the part of the person extorted must be reasonable. You may also consider whether the implicit threat of violence permeated the relationship. Whether an implied or veiled reference amounts to a threat is a matter for you to decide under all the circumstances.

In considering whether force, violence, or fear was used or threatened, you should give those words their common and ordinary meaning and understand them as you normally would in conversation. The threatened violence does not have to be directed at the person whose property was taken. The use of a threat of force or violence might be aimed at a third person, or at causing economic, rather than physical harm. A threat may be made verbally or by a physical gesture, or, as I explained earlier, a threat may be veiled or implied. Whether a statement or physical gesture actually was a threat depends on all of the circumstances.

Fear exists if at least one victim experiences anxiety, concern, or worry over expected personal harm, or loss, or financial security. The existence of fear must be determined by the facts that existed at the time property was taken. Your decision whether fear or injury has been used or threatened involves a decision about people's state of mind at the time the property is taken. It is obviously impossible to ascertain or prove directly what a person actually felt. You

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1 cannot look into a person's mind to see what his state of mind
2 actually was, but a careful consideration of the circumstances
3 and the evidence should enable you to decide whether fear
4 reasonably would have been the person's state of mind.

5 Fear of physical or economic injury or personal harm
6 may be found to be reasonable if, considering the demand for
7 money, the person who would have made the demand, and the
8 nature of the conduct, a reasonable person would get the
9 message clearly. There need not be an explicit demand for
10 money; the demand may have been implicit in the perpetrator's
11 conduct or other statements.

12 Looking at the situation and the actions of people
13 involved may help you determine what their state of mind was.
14 You have also heard the testimony of some witnesses describing
15 their state of mind—that is, how they felt—in giving up the
16 property. You can consider this kind of testimony in deciding
17 whether the property was obtained or sought through the use of
18 fear.

19 It is not necessary that the fear be a consequence of
20 a direct threat. It is sufficient that the surrounding
21 circumstances render the person's fear reasonable. You must
22 find that a reasonable person would have been fearful in the
23 circumstances. If you find that the defendant, or the alleged
24 enterprise, cultivated a reputation for violence and
25 intimidation, you may consider that reputation in assessing

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1 whether payments were induced by the exploitation of existing
2 fear without an explicit or implicit threat.

3 As part of this element, the government must also
4 prove beyond a reasonable doubt that Mr. Ray or a
5 co-conspirator wrongfully took this property by actual or
6 threatened force, violence, or fear of injury or economic harm,
7 whether immediately or in the future.

8 Here, the defense has asserted that Mr. Ray believed
9 that he was entitled to the property at issue. If you decide
10 that the actual or threatened use of force or violence or the
11 fear of injury was used to obtain the property, then that is
12 inherently wrongful, and you need not consider Mr. Ray's claim
13 of right to the property. In short, the law recognizes that
14 you cannot use violence or threats of violence against someone
15 to collect a debt, even if you believe that person owes it to
16 you.

17 If, however, you determine that the government has not
18 proven beyond a reasonable doubt that Mr. Ray obtained property
19 through the actual or threatened use of force or violence, you
20 are to consider whether he obtained the property through other
21 wrongful threats, like threats of reputational or financial
22 harm. A defendant cannot be found to have acted wrongfully on
23 the basis that he obtained property by fear of economic or
24 reputational harm if the defendant had a good faith and
25 plausible claim of entitlement to the property demanded and if

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1 there is a nexus between the threat and the claim of right. In
2 that circumstance, you may not convict Mr. Ray unless the
3 government proves beyond a reasonable doubt either (1) that
4 Mr. Ray lacked a good faith claim of entitlement to the
5 property demanded; or (2) that Mr. Ray lacked a plausible claim
6 of entitlement to the property demanded, or (3) there was no
7 nexus between the threat and the claim of right.

8 In determining whether the government has proved
9 beyond a reasonable doubt that the defendant lacked a good
10 faith claim of entitlement, you should consider, among other
11 things, the amount of property demanded and the basis for the
12 claim of entitlement. In determining whether the government
13 has proved beyond a reasonable doubt that there is a nexus
14 between the threat and the claim of right, you should consider
15 what relation, if any, the threat has to the claimed
16 entitlement. For example, threatened disclosures of sexual
17 indiscretions that have no nexus with any plausible claim of
18 right are inherently wrongful. By contrast, a threat to
19 complain to a consumer protection agency about a claim to which
20 the threatener has a plausible claim of right is not wrongful,
21 where the disclosures themselves (and not just the threats)
22 have the potential to cause payment of the money demanded, and
23 where the person actually and plausibly believes he is owed the
24 money demanded.

25 As to the third element, I have already instructed you

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1 on the definition of interstate commerce. I further instruct
2 you that money is obtained in a manner that affects interstate
3 commerce if the money is the proceeds of an illegal business
4 that operated across state lines.

5 The second category of predicate acts the indictment
6 alleges was committed or was intended to be committed as part
7 of the RICO conspiracy was extortion, and aiding and abetting
8 the same, in violation of New York State law.

9 In order for the offense of state law extortion to be
10 considered as a racketeering act, the government must prove
11 that Mr. Ray or a co-conspirator agreed to or committed each
12 element of second degree grand larceny under New York State
13 Penal Law Section 155.40(2), beyond a reasonable doubt.

14 Under New York Penal Law Section 155.40(2), a person
15 is guilty of grand larceny in the second degree when that
16 person steals property and when the property, regardless of its
17 nature and value, is obtained by extortion committed by
18 instilling in the victim a fear that the actor or another will:

19 Cause physical injury to some person in the future; or
20 Cause damage to property.

21 The term "steals property" used in this definition has
22 its own special meaning in our law. I will now give you the
23 meaning of that term.

24 A person steals property and commits larceny when,
25 with the intent to deprive another of property or to

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1 appropriate the same to himself or herself or to a third
2 person, such person wrongfully takes, obtains, or withholds
3 such property from an owner of the property.

4 The following terms used in that definition have a
5 special meaning:

6 "Property" means any money, personal property, or
7 thing of value.

8 "Owner" means a person having a right to possession of
9 the property superior to that of the person who takes it.

10 "Intent" means conscious objective or purpose. Thus,
11 a person acts with intent to deprive another of property or to
12 appropriate property to himself or herself or to a third party
13 when such person's conscious objective or purpose is:

14 1. To withhold the property or cause it to be
15 withheld permanently, or

16 2. To exercise control over the property permanently.

17 A person wrongfully takes, obtains, or withholds
18 property from an owner when that person obtains such property,
19 regardless of its nature or value, by extortion.

20 A person obtains property by extortion when that
21 person compels or induces another person to deliver such
22 property to himself or herself or to a third person by means of
23 instilling in that person a fear that, if the property is not
24 so delivered, the actor or another will:

25 Cause physical injury to some person in the future;

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1 Cause damage to property.

2 A violation of New York Penal Law Section 155.40(2)
3 thus requires evidence, beyond a reasonable doubt, of the
4 following two elements:

5 1. A person wrongfully obtained property from its
6 owner by extortion; and

7 2. The person did so with the intent to deprive
8 another of the property or to appropriate the property to
9 himself or to a third person.

10 I'll now instruct you with respect to the predicate
11 act of sex trafficking by force or coercion.

12 The third category of predicate acts the indictment
13 alleges was committed or was intended to be committed as part
14 of the RICO conspiracy was the crime of sex trafficking by
15 force, threats of force, or coercion, or any combination of
16 such means, and aiding and abetting the same. This crime is
17 set forth in Title 18, United States Code, Section 1591.

18 Section 1591 provides, in pertinent part:

19 "Whoever knowingly . . . in or affecting interstate
20 . . . commerce, . . . recruits, entices, harbors, transports,
21 provides, obtains, advertises, maintains, patronizes, or
22 solicits by any means a person; or: benefits, financially or by
23 receiving anything of value, from participation in a venture
24 which has engaged in [such] an act . . . , knowing, or, except
25 where the act constituting brackets [such] . . . violation

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1 . . . is advertising, in reckless disregard of the fact, that
2 means of force, threats of force . . . coercion . . . , or any
3 combination of such means will be used to cause the person to
4 engage in a commercial sex act [is guilty of a federal crime]."

5 The crime of sex trafficking by force, threats of
6 force, or coercion, or any combination of such means has the
7 following three elements:

8 First, a person knowingly recruited, enticed,
9 harbored, transported, provided, obtained, advertised,
10 maintained, patronized, or solicited the victim;

11 Or

12 The person knowingly benefited, financially or by
13 receiving anything of value, from participating in a venture
14 that recruited, enticed, harbored, transported, provided,
15 obtained, advertised, maintained, patronized, or solicited the
16 victim;

17 Second, the person knew or recklessly disregarded the
18 fact that force, threats of force, or coercion, or any
19 combination of such means, would be used to cause the victim to
20 engage in a commercial sex act; and

21 Third, the person's acts were in or affecting
22 interstate or foreign commerce.

23 The first element of the crime of sex trafficking is
24 that a person either (1) knowingly recruited, enticed,
25 harbored, transported, provided, obtained, advertised,

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1 maintained, patronized, or solicited the victim; or (2)
2 knowingly benefited, financially or by receiving anything of
3 value, from participating in an enterprise that recruited,
4 enticed, harbored, transported, provided, obtained, maintained,
5 advertised, patronized, or solicited the victim.

6 Therefore, there are two different ways for the
7 government to satisfy the first element. The first way is by
8 proving that the defendant or a co-conspirator knowingly
9 engaged in one of the prohibited trafficking acts. This is by
10 recruiting, enticing, harboring, transporting, providing,
11 obtaining, advertising, maintaining, patronizing, or soliciting
12 a person. The second way is by proving that the defendant or a
13 co-conspirator knowingly took part in a venture that engaged in
14 one of those trafficking activities and benefited, financially
15 or by receiving a thing of value, from that venture. The
16 government does not have to prove that the defendant or a
17 co-conspirator violated the statute both ways.

18 With respect to your consideration of whether the
19 defendant or a co-conspirator knowingly recruited, enticed,
20 harbored, transported, provided, obtained, advertised,
21 maintained, patronized, or solicited a person, I instruct you
22 to use the ordinary, everyday definitions of those terms.
23 "Recruit" means to seek to enroll. "Entice" means to attract,
24 induce, or lure using hope or desire. "Harbor" means to give
25 or afford shelter to, such as in a house or other place.

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"Transport" means to take or convey from one place to another.

"Provide" means to furnish, supply, or make available.

"Obtain" means to gain possession of or acquire. "Advertise" means to publicize. "Patronize" means to visit or obtain services in exchange for money. "Solicit" means to seek out.

"Maintain" means to keep in an existing state or support. I instruct you, however, that you may not consider conduct that occurred before May 29, 2015, when determining whether Mr. Ray or a co-conspirator "advertised," "solicited" or "patronized" another person.

The second, or alternative, way to prove the first element of sex trafficking is for the government to show that there was a venture that engaged in recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting a person; that the defendant or a co-conspirator knowingly participated in some way in that venture; and that the defendant or a co-conspirator knowingly benefited, financially or by receiving anything of value, from that venture. Again, you may not consider conduct that occurred before May 29, 2015, when determining whether Mr. Ray or a co-conspirator benefited from a venture that engaged in "advertising," "soliciting," or "patronizing" another person.

In considering whether the defendant or a co-conspirator participated in such a venture, I instruct you

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that a venture is defined as "any group of two or more individuals associated in fact, whether or not as a legal entity." You may find that the defendant or a co-conspirator participated in a venture prohibited by the sex trafficking law if the defendant or a co-conspirator took part in that venture in any way. The defendant or a co-conspirator may be, but need not be, responsible for forming that venture. Likewise, the person need not be the organizer or main participants in the venture, and need not have participated throughout the length of the venture. It is enough if the defendant or a co-conspirator took some part in the venture for any period of time while the venture was still ongoing, even if the parts they played were minor, and even if they were not related to the actual recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting of a person for commercial sex.

To benefit, financially or by receiving anything of value, from a venture, the defendant or a co-conspirator must receive some form of profit, benefit, value, or advantage, no matter how minor or intangible, from the venture.

If the defendant or a co-conspirator himself or herself recruited, enticed, harbored, transported, provided, obtained, maintained, advertised, patronized, or solicited a person, you need not consider whether or not that person benefited from doing so.

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1 The government must prove that Mr. Ray or a
2 co-conspirator acted knowingly in either the prohibited
3 trafficking activity or joining in a venture that engaged in a
4 prohibited trafficking activity. I have already instructed you
5 regarding what it means to act knowingly. You should apply
6 that instruction here.

7 In deciding whether or not the first element of the
8 sex trafficking statute has been satisfied, you need not all
9 agree that the government has proven the element the first way
10 or the second way. Stated differently, you need not all agree
11 the defendant or a co-conspirator actually recruited, enticed,
12 harbored, transported, provided, obtained, advertised,
13 maintained, patronized, or solicited a person, or also all
14 agree that the defendant or a co-conspirator participated in a
15 venture that did one of those things and benefited thereby.
16 You need only all agree that the government has proven beyond a
17 reasonable doubt that the defendant or a co-conspirator did one
18 or the other of those two alternatives that I described for
19 you.

20 The second element of sex trafficking requires the
21 government to prove beyond a reasonable doubt that the
22 defendant or a co-conspirator knew, or recklessly disregarded,
23 that force, threats of force, or coercion, or any combination
24 of such means, would be used to cause the victim to engage in a
25 commercial sex act.

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1 This element speaks to the state of mind of the
2 defendant or a co-conspirator while engaging in any of the
3 actions I described in connection with the first element. Like
4 the first element, this second element can be proven in two
5 different ways.

6 One way to prove the second element is to demonstrate
7 that the defendant or a co-conspirator engaged in any of the
8 actions I described in connection with the first element
9 knowing that force, threats of force, or coercion, or any
10 combination of such means, would be used to cause the victim to
11 engage in a commercial sex act. Here, I instruct you to apply
12 the definition of "knowing" that I have previously provided to
13 you.

14 In the alternative, this second element can be proven
15 for all of the actions I described in connection with the first
16 element, except for advertising, if it is demonstrated that the
17 defendant or a co-conspirator acted in reckless disregard of
18 the fact that force, threats of force, fraud, or coercion, or
19 any combination of such means, would be used to cause the
20 victim to engage in a commercial sex act.

21 "Reckless disregard" means that the defendant or a
22 co-conspirator acted with reckless indifference to facts that,
23 if considered and weighed in a reasonable manner, indicate the
24 highest probability that force, threats of force, or coercion,
25 or any combination of such means, would be used to cause the

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1 victim to engage in a commercial sex act. In order to prove
2 beyond a reasonable doubt that a defendant or a co-conspirator
3 "recklessly disregarded" this fact, the government must prove
4 that such person deliberately closed his or her eyes to what
5 would otherwise have been obvious to him or her. No one can
6 avoid responsibility for a crime by deliberately ignoring what
7 is obvious. A finding beyond a reasonable doubt of the intent
8 of the defendant or a co-conspirator to avoid knowledge or
9 enlightenment would permit the jury to find that this element
10 has been satisfied. Stated another way, a person's reckless
11 disregard of a particular fact may be shown from a deliberate
12 or intentional ignorance or deliberate or intentional blindness
13 to the existence of that fact.

14 With respect to advertising, as I noted, if you find
15 that Mr. Ray himself advertised a person for a commercial sex
16 act or joined a venture doing the same, you must find Mr. Ray
17 acted with knowledge that force, threats of force, or coercion,
18 or any combination of such means, would be used to cause the
19 victim to engage in a commercial sex act.

20 For any of the other actions I described in connection
21 with the first element of substantive sex trafficking—that is,
22 a defendant who recruited, enticed, harbored, transported,
23 provided, maintained, patronized, or solicited the victim—you
24 need not find that the defendant or co-conspirator acted
25 knowingly and instead may find that the person acted in

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1 reckless disregard of the fact that force, threats of force, or
2 coercion, or any combination of such means, would be used to
3 cause the victim to engage in a commercial sex act.

4 To help you in determining whether Mr. Ray or a
5 co-conspirator acted with knowledge, or in reckless disregard
6 of, the fact that force, threats of force, or coercion, or any
7 combination of such means, would be used to cause the victim to
8 engage in a commercial sex act, I need to instruct you on the
9 meanings of "force," and "coercion," as well as on the meaning
10 of "commercial sex act."

11 I will start with the term "commercial sex act." That
12 term means any sex act on account of which anything of value is
13 given to or received by any person. The term "sex act" should
14 be given its plain meaning, which is ordinarily understood to
15 be an act performed with another for sexual gratification.

16 The term "force" means any form of power, violence, or
17 physical pressure directed against another person.

18 The term "coercion" has three meanings. It means any
19 threat of serious harm to or physical restraint against any
20 person; or any scheme, plan, or pattern intended to cause a
21 person to believe that failure to perform an act would result
22 in serious harm to or physical restraint against any person; or
23 any abuse or threatened abuse of law or the legal process.

24 The term "serious harm" includes threats of any harm,
25 whether physical or nonphysical, including psychological,

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1 financial, or reputational harm, that is sufficiently serious,
2 under all the surrounding circumstances, to compel a reasonable
3 person of the same background and in the same situation as the
4 trafficked person, to perform or continue performing commercial
5 sex acts in order to avoid incurring that harm. The repeated
6 physical, verbal, and emotional abuse of a person by the
7 defendant or a co-conspirator can rise to the level of serious
8 harm.

9 Abuse or threatened abuse of law or legal process,
10 means the use or threatened use of a law or legal process,
11 whether administrative, civil, or criminal, in any manner or
12 for any purpose for which the law was not designed, in order to
13 exert pressure on another person to cause that person to take
14 some action or refrain from taking some action. Abuse or
15 threatened abuse of law or legal process includes threats to
16 send a person to jail or to deport a person that are
17 sufficient, under all the surrounding circumstances, to compel
18 or coerce a person to perform a commercial sex act that the
19 person would not have otherwise been willing to perform.

20 (Continued on next page)

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1 THE COURT: If you find that any of these prohibited
2 means was used, or any combination of these means, you must
3 then determine whether such force was sufficient to cause the
4 victim to engage in a commercial sex act against the victim's
5 will. In making that determination, you may consider the
6 cumulative effect of the conduct of the defendant or a
7 coconspirator on the victim.

8 You may also consider the special vulnerabilities, if
9 any, of the victim. By this I mean that you may consider any
10 aspect of the victim's age, background, station in life,
11 physical or mental condition, experience or education, or any
12 inequalities between the victim and the defendant.

13 Simply put, you may ask whether the victim was
14 vulnerable in some way such that the use of force, threats of
15 force, or coercion, or any combination of such means, even if
16 not sufficient to compel another person to engage in a
17 commercial sex act, would have been enough to compel a
18 reasonable person in the same circumstances and with the same
19 background as the victim to engage in a commercial sex act.

20 To prove sex trafficking, the government does not need
21 to link any specific commercial sex act to any particular
22 threat made, or any particular action taken, on the part of
23 Mr. Ray or a coconspirator. If the use of force, threats of
24 force, or coercion, or any combination of such means, was
25 sufficient to give rise to a climate of fear that would compel

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a reasonable person in the victim's situation to comply with the demands of Mr. Ray or a coconspirator, in light of the totality of the conduct of Mr. Ray or a coconspirator, the surrounding circumstances and any vulnerabilities of the individual, then you likewise may find that the second element has been met.

The government also need not prove physical restraint in order to establish the offense of sex trafficking. The government can establish this element if it proves beyond a reasonable doubt that the defendant or a coconspirator placed the person in fear of leaving or created circumstances such that the person did not reasonably believe that he or she could leave.

Further, whether a person is paid or is able to keep some of their earnings is not determinative of the question whether that person has been compelled to engage in sex trafficking. In other words, if a person is compelled to engage in a commercial sex act, through force, threats of force, or coercion, or any combination of such means, such service is involuntary, even if the person is paid or compensated for the work.

Finally, the victim does not need to have been subjected to force, threats of force, or coercion, or any combination of such means, for the entirety of the period in which the victim engaged in commercial sex acts. If there is

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1 just one instance that establishes the use of force, threats of
2 force or coercion, or any combination of such means, to cause
3 the victim to perform a commercial sex act, that is sufficient.
4 Therefore, the fact that a person may have initially acquiesced
5 or agreed to perform a commercial sex act, or voluntarily
6 engaged in commercial sex acts apart from the defendant or a
7 coconspirator, does not preclude a finding that the person was
8 later compelled to engage in a commercial sex act through the
9 use of force, threats of force, or coercion, or any combination
10 of such means.

11 For example, if a victim willingly engaged in a
12 commercial sex act, either with the defendant or otherwise,
13 then later wanted to cease engaging in such acts, but was
14 compelled to continue to perform such acts through force,
15 threats of force, or coercion, or any combination of such
16 means, then you may find that the victim's later acts were
17 compelled by force, threats of force, or coercion, or any
18 combination of such means.

19 To satisfy the third and final element of the crime of
20 sex trafficking, the government must prove beyond a reasonable
21 doubt that the sex trafficking activities were in interstate
22 commerce or affected interstate commerce in any way, however
23 minimal. The government need not prove both that the
24 activities were in interstate commerce and affected interstate
25 commerce. I previously defined the interstate commerce

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1 element, and you should use that instruction here.

2 The fourth category of predicate acts that the
3 government alleges was committed or was intended to be
4 committed as part of the RICO conspiracy was obtaining or
5 providing forced labor by various unlawful means, in violation
6 of Section 1589 of Title 18 of the United States Code, and
7 aiding and abetting the same. That section provides in part:

8 Whoever knowingly provides or obtains the labor or
9 services of a person by any one of, or by any combination of,
10 the following means: (I) by means of force, threats of force,
11 physical restraint, or threats of physical restraint to that
12 person or another person; (II) by means of serious harm or
13 threats of serious harm to that person or another person; (III)
14 by means of the abuse or threatened abuse of law or legal
15 process; or (IV) by means of any scheme, plan, or pattern
16 intended to cause the person to believe that if that person did
17 not perform such labor or services, that person or another
18 person would suffer serious harm or physical restraint, shall
19 be guilty of a crime.

20 In order for the offense of forced labor to be
21 considered as a racketeering act, the government must prove
22 that Mr. Ray or a coconspirator agreed to commit or committed
23 each of the following elements of forced labor beyond a
24 reasonable doubt:

25 First, that Mr. Ray or the coconspirator obtained or

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1 provided the labor or services of another;

2 Second, that such person did so through one of the
3 following prohibited means: (1) through force, physical
4 restraint, or the threat of either against a person or another
5 person; (2) through serious harm or threat of serious harm to
6 the person or another person; (3) through abuse or threatened
7 abuse of the legal process; or (4) through the use of a scheme,
8 plan, pattern intended to cause the person to believe that the
9 nonperformance of such labor or services could result in
10 serious harm to or physical restraint against that person or
11 another person.

12 Third, that Mr. Ray or the coconspirator, whichever
13 the case may be, acted knowingly.

14 I have already instructed you generally as to the
15 meaning of aiding and abetting under federal law, and you
16 should apply those instructions here.

17 I will now explain each of these three elements in
18 greater detail.

19 The first element of the offense that the government
20 must prove beyond a reasonable doubt is that Mr. Ray or a
21 coconspirator obtained or provided the labor or services of
22 another person.

23 To obtain means to gain or acquire. You should give
24 labor and services their ordinary meanings. Labor means the
25 expenditure of physical or mental effort, especially when

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1 fatiguing, difficult, or compulsory. Services is defined as
2 the performance of work commanded or paid for by another.

3 The government does not have to prove that a victim
4 performed work for the defendant or a coconspirator in the
5 economic sense, although that would satisfy this element. All
6 the government must prove is that a victim provided labor or
7 services as I have just defined them.

8 As to the second element, if you find that Mr. Ray or
9 a coconspirator obtained the labor or services of the
10 individual, then you must determine whether Mr. Ray or the
11 coconspirator did so through one of the four prohibited means;
12 that is, through (1) force, physical restraint or threats to
13 either -- to the person or to another person; (2) serious harm
14 or threats of serious harm to the person or another person; (3)
15 abuse or threatened abuse of the legal process; or (4) the use
16 of a scheme, plan or pattern intended to cause the person to
17 believe that serious harm would result if the person did not
18 perform the labor or services required of that person.

19 I will now define for you some of the terms you will
20 be considering in determining whether this second element of
21 the forced labor predicate has been satisfied.

22 Physical restraint means being confined by being tied,
23 bound, or locked up.

24 A threat is a serious statement expressing an
25 intention to inflict harm, at once or in the future, as

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1 distinguished from idle or careless talk, exaggeration, or
2 something said in a joking manner. For a statement to be a
3 threat, the statement must have been made under such
4 circumstances that a reasonable person who heard or read the
5 statement would understand it as a serious expression of an
6 intent to cause harm. In addition, Mr. Ray or the
7 coconspirator must have made the statement intending it to be a
8 threat, or with knowledge that the statement would be viewed as
9 a threat.

10 The term serious harm includes both physical and
11 nonphysical types of harm, including psychological, financial,
12 or reputational harm. A threat of serious harm includes any
13 threat that is initial under all of the surrounding
14 circumstances to compel a reasonable person of the same
15 background and in the same circumstances to perform or to
16 continue performing labor or services in order to avoid
17 incurring that harm.

18 In determining whether Mr. Ray or a coconspirator made
19 a threat of serious harm that could reasonably be believed, you
20 should consider the individual's particular station in life,
21 physical or mental condition, age, education, training,
22 experience, and intelligence. A threat of serious harm must be
23 sufficient in kind or degree to completely overcome the will of
24 an ordinary person having the same general station in life as
25 that of the individual, causing a reasonable belief that there

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1 was no reasonable choice except to provide labor and services
2 to Mr. Ray or the coconspirator.

3 The term abuse or threatened abuse of law or legal
4 process has the meaning I have previously instructed you on.
5 It includes threats to send a person to jail or to deport a
6 person that are sufficient, under all the surrounding
7 circumstances, to compel or coerce a person to perform labor or
8 services that the person would not have otherwise been billing
9 to perform.

10 You should give the words scheme, plan, and pattern
11 their ordinary meanings. A scheme is a plan or program of
12 action. A plan is a method for achieving an end or detailed
13 formulation of a program of actions. A pattern is a mode of
14 behavior or series of acts that are recognizably consistent.

15 If you find that the individual was threatened with
16 serious harm, the government does not have to prove physical
17 restraint in order to establish the offense of forced labor.
18 The fact that the individual might have had an opportunity to
19 escape is irrelevant if Mr. Ray or a coconspirator placed the
20 individual in such fear or circumstances that the individual
21 reasonably believed that he or she could not leave. A victim
22 who has been placed in such fear or circumstances is under no
23 affirmative duty to try to escape.

24 Finally, in considering whether the service performed
25 by someone was involuntary, I am instructing you that it is not

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a defense to the crimes of forced labor that the person might have initially agreed, voluntarily, to render the service or perform the work. If a person willingly begins work, but later wants to cease engaging in such acts, and then is forced to remain and perform the work against their will by threats of serious harm or physical restraint, or by scheme, plan, or pattern intended to cause them to believe that nonperformance will result in serious harm or physical restraint to them or another person, then their service becomes involuntary.

Also, whether a person is paid a salary or wage is not determinative of the question whether that person has been held in forced labor. In other words, if a person is compelled to labor against their will by any one of the means prohibited by the forced labor statute, such service is involuntary, even if she is not paid or compensated for the work.

The third element I have already described to you requires that Mr. Ray or a coconspirator acted knowingly. I've already instructed you as to the meaning of knowingly, and you should apply that definition here.

The fifth category of predicate acts the government alleges was committed or was intended to be committed as part of the RICO conspiracy is forced labor trafficking, in violation of Section 1590 of Title 18 of the United States Code, and aiding and abetting the same.

The relevant portion of that statute provides:

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1 "whoever knowingly recruits, harbors, transports, provides, or
2 obtains by any means, any person for labor or services in
3 violation of this statute shall be guilty of a crime.

4 In order for forced labor trafficking to be considered
5 as a racketeering act, the government must prove that Mr. Ray
6 or a coconspirator agreed to or committed each of the following
7 elements of forced labor trafficking beyond a reasonable doubt:

8 First, that Mr. Ray or the coconspirator recruited,
9 harbored, transported, provided, or obtained an individual;

10 Second, that such person did so for the purpose of
11 providing or obtaining the labor or services of an individual
12 in violation of the forced labor statute, Section 1589. That
13 is, that Mr. Ray or the coconspirator, whichever the case may
14 be, trafficked an individual as I have just described, with the
15 purpose of providing or obtaining her labor or services by
16 means of serious harm, or threats of serious harm, to that
17 individual or another person, by means of the abuse or
18 threatened abuse of law or legal process, or by means of any
19 scheme, plan, or pattern intended to cause an individual to
20 believe that, if the individual did not perform such labor or
21 services, the individual or another person would suffer serious
22 harm or physical restraint; and

23 Third, that Mr. Ray or the coconspirator, whichever
24 the case may be, acted knowingly. I have previously instructed
25 you on the definition of knowingly, and you should apply that

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1 definition to the third element here.

2 With respect to the first element, the word harbor
3 means simply to provide shelter to that person. To obtain
4 someone means to acquire, control, or possess that person, even
5 if only for a short period of time.

6 With respect to the second element, the government
7 must prove beyond a reasonable doubt that Mr. Ray or the
8 coconspirator recruited, harbored, transported, provided, or
9 obtained an individual for the purpose of providing or
10 obtaining that individual's forced labor. That is, labor or
11 services provided or obtained by one of the prohibited means I
12 described a moment ago.

13 The crime prohibited by Section 1590 is trafficking a
14 person for this unlawful purpose. To establish this element,
15 the government does not need to prove that Mr. Ray or
16 "coconspirator actually obtained or attempted to obtain the
17 individual's forced labor, only that Mr. Ray trafficked the
18 individual for the purpose of providing it or obtaining it.

19 I have already defined the terms labor, services,
20 threat, serious harm, and scheme, plan, or pattern, recruit,
21 transport, and provide, and abuse of legal process. You should
22 apply those definitions here.

23 If you find that Mr. Ray or a coconspirator trafficked
24 an individual for the unlawful purpose I have described, the
25 fact that the individual may have had an opportunity to escape

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1 is irrelevant if Mr. Ray or the coconspirator placed an
2 individual in such fear or circumstances that the victim
3 reasonably believed that he or she could not leave.

4 The sixth category of predicate acts that the
5 indictment alleges was committed or was intended to be
6 committed as part of the RICO conspiracy was the use of
7 interstate facilities to promote unlawful activity and aiding
8 and abetting the same.

9 The relevant statute for this charge, which is also
10 known as the Travel Act, is Title 18, United States Code,
11 Section 1952(a)(3), which provides that "whoever travels in
12 interstate commerce or foreign commerce or uses the mail or any
13 facility in interstate or foreign commerce, with intent to
14 otherwise promote, manage, establish, carry on, or facilitate
15 the promotion, management, establishment or carrying on of any
16 unlawful activity and thereafter performs or attempts to
17 perform an act to promote, manage, establish, carry on, or
18 facilitate the promotion, management, establishment, or
19 carrying on of any unlawful activity, is guilty of a federal
20 crime."

21 To prove a violation of the Travel Act, the government
22 must establish beyond a reasonable doubt each of the following
23 elements of the offense:

24 First, that Mr. Ray or a coconspirator used or caused
25 someone else to use an interstate facility; second, that this

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1 use of an interstate facility was done with the intent to
2 promote, manage, establish, or carry on an unlawful activity;
3 and

4 Third, that after this use of an interstate facility,
5 such person performed or attempted to perform an act in
6 furtherance of this same unlawful activity.

7 I have already instructed you generally as to the
8 meaning of aiding and abetting under federal law. You should
9 apply those instructions here.

10 The first element that the government must prove
11 beyond a reasonable doubt is that Mr. Ray or a coconspirator
12 used or caused someone else to use an interstate facility.

13 An interstate facility is any vehicle or instrument
14 that crosses state lines in the course of commerce. For
15 example, a freight carrier that carries items from one state to
16 another is an interstate facility. Any use of the Internet or
17 mails constitutes the use of an interstate facility, regardless
18 of whether the mailed item crossed a state line. Making a
19 telephone call from one state to another is also the use of an
20 interstate facility.

21 To meet its burden of proof on the first element, it
22 is not necessary for the government to prove that Mr. Ray
23 himself, or one or more coconspirators themselves, used an
24 interstate facility. The Travel Act also applies to a person
25 who causes another person to use an interstate facility.

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1 Therefore, if the government has proved beyond a reasonable
2 doubt that Mr. Ray or a coconspirator caused another person to
3 use an interstate facility, then you may find that the
4 government has proven the first element of the offense.

5 The government does not have to prove that Mr. Ray or
6 a coconspirator knew that the use of an interstate facility
7 would occur. It is sufficient that defendant's unlawful
8 activity caused the use. Further, it does not matter whether
9 Mr. Ray or a coconspirator knew he was using interstate
10 facilities or intended to use interstate facilities or agreed
11 that another would use interstate facilities. All the
12 government must prove with respect to the first element is that
13 Mr. Ray did in fact use interstate facilities or that a
14 coconspirator did.

15 The second element that the government must prove
16 beyond a reasonable doubt is that the use of an interstate
17 facility was done with the intent to promote, manage,
18 establish, or carry on an unlawful activity.

19 It is not enough for the government to prove only that
20 Mr. Ray or a coconspirator used an interstate facility. The
21 government must also prove beyond a reasonable doubt that
22 Mr. Roy or a coconspirator used or would use the interstate
23 facility for the purpose of facilitating the unlawful activity.

24 The government does not have to prove that the
25 furtherance of the unlawful activity was the sole purpose in

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1 using an interstate facility. It is sufficient if the
2 government proves that one of the reasons for using an
3 interstate facility was to further the unlawful activity.
4 Thus, if you find that Mr. Ray or a coconspirator used or would
5 use interstate facilities with the intent to facilitate the
6 unlawful activity, and you also find that such person undertook
7 this same use of interstate facilities from other reasons that
8 have nothing to do with the unlawful activity, you may still
9 find that the government has met its burden on the second
10 element of the offense.

11 You may determine Mr. Ray's or a coconspirator's
12 purpose of using interstate facilities, and thus their intent,
13 from the evidence that has been placed before you, including
14 the statements of Mr. Ray or a coconspirator, and such person's
15 conduct before and after the use of the facilities.

16 As I have instructed you, the government must prove
17 that Mr. Ray or a coconspirator intended the use of interstate
18 facilities to facilitate or further the unlawful activity. The
19 government does not, however, have to prove that use of
20 interstate facilities was essential to the unlawful activity or
21 fundamental to the unlawful scheme, or that the unlawful
22 activity could not have been accomplished without the use of
23 interstate facilities.

24 So long as the government proves that Mr. Ray or a
25 coconspirator used or would use interstate facilities with the

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1 necessary unlawful intent, the government may rely on any use
2 of interstate facilities by such person that made the unlawful
3 activity easier to accomplish. The government must prove that
4 Mr. Ray or a coconspirator used an interstate facility with the
5 intent to facilitate an activity that such person knew was
6 real. The government does not have to prove that Mr. Ray or a
7 coconspirator knew that the use of facilities was illegal.
8 However, the government must prove beyond a reasonable doubt
9 that Mr. Ray or a coconspirator knew that the activity intended
10 to be facilitated was illegal.

11 With respect to that charge of using an interstate
12 facility to facilitate prostitution, the government must prove
13 beyond a reasonable doubt that the activities Mr. Ray or a
14 coconspirator intended to facilitate were in fact unlawful
15 under New York law.

16 In order to prove this, the government must prove
17 beyond a reasonable doubt that Mr. Ray or a coconspirator
18 performed or attempted to perform an act in furtherance of (I)
19 prostitution in violation of New York Penal Law Section 230;
20 (II) promoting prostitution in the fourth degree, in violation
21 of New York Penal Law, Section 230.20; (III) promoting
22 prostitution in the third degree, in violation of New York
23 Penal Law Section 230.25; or (IV) promoting prostitution in the
24 second degree, in violation of New York Penal Law Section
25 230.30.

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1 The element of prostitution in violation of New York
2 Penal Law Section 230 is as follows: That an individual
3 engaged or agreed or offered to engage in sexual conduct with
4 another person in return for a fee. The element of promoting
5 prostitution in the fourth degree in violation of New York
6 Penal Law Section 230.20 is as follows: That an individual
7 knowingly advances or profits from prostitution.

8 The element of promoting prostitution in the third
9 degree, in violation of New York Penal Law Section 230.25, is
10 as for that: That an individual knowingly advances or profits
11 from prostitution by managing, supervising, controlling, or
12 owning, either alone or in association with others, a house of
13 prostitution or a prostitution business or enterprise involving
14 prostitution activity by two or more prostitutes.

15 The element of promoting prostitution in the second
16 degree, in violation of New York Law Section 230.30, is as
17 follows: That an individual knowingly advances prostitution by
18 compelling a person by force or intimidation to engage in
19 prostitution or profits from such coercive conduct by another.

20 The following terms used in that definition have a
21 special meaning.

22 Prostitution means the act or practice of engaging, or
23 agreeing or offering to engage, in sexual conduct with another
24 person in return for a fee.

25 A person advances prostitution when, acting other than

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1 as a person in prostitution, or as a patron thereof, he or she
2 knowingly causes or aids a person to commit or to engage in
3 prostitution, procures or solicits patrons for prostitution,
4 provides persons or premises for prostitution purposes,
5 operates or assists in the operation of a house of
6 prostitution, or prostitution enterprise or engages in any
7 other conduct designed to institute, aid, or facilitate an act
8 or enterprise of prostitution.

9 A person profits from prostitution when acting other
10 than as a person in prostitution receiving compensation for
11 personally rendering prostitution services. He or she accepts
12 or receives money or other property pursuant to an agreement or
13 understanding with any person whereby he or she participates or
14 is to participate in the proceeds of prostitution activity. A
15 person knowingly advances prostitution when that person is
16 aware that he or she is doing so.

17 The government must also prove that the unlawful
18 activity that the interstate facility was used to facilitate
19 was a business enterprise. That is, the government must prove
20 that the unlawful activity was part of a continuous course of
21 criminal conduct and not simply an isolated criminal incident.
22 If you find that the unlawful activity was an isolated incident
23 and is not part of an ongoing course of criminal conduct, you
24 must find Mr. Ray not guilty.

25 However, to prove that the unlawful activity was a

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1 business enterprise, the government does not have to show that
2 the alleged illegal activity was engaged in for any particular
3 length of time. Nor must the government prove that such
4 activity was a primary pursuit or occupation that it actually
5 turned to profit. What the government must prove beyond a
6 reasonable doubt is that Mr. Ray or a coconspirator engaged in
7 a continuous course of criminal conduct for the purpose of
8 profit rather than casual sporadic or isolated criminal
9 activity.

10 The third element that the government must prove
11 beyond a reasonable doubt is that Mr. Ray's or a
12 coconspirator's use of an interstate facility was filed by such
13 person's performance or attempted performance of an act in
14 furtherance of the unlawful activity. This act need not itself
15 be unlawful. However, this act must come after the use of an
16 interstate facility. Any act that happened before the use of
17 an interstate facility cannot satisfy this element.

18 Members of the jury, let's take a two or three-minute
19 stretch break now, and then I'll have more instructions for
20 you.

21 Let me now instruct you with respect to the predicate
22 activity having to do with money laundering.

23 The seventh category of predicate acts that the
24 indictment alleges was committed or was intended to be
25 committed as part of the RICO conspiracy was money laundering,

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1 in violation of Title 18, United States Code, Section 1956, and
2 aiding and abetting the same.

3 Money laundering occurs when a person conducts a
4 financial transaction knowing that the transaction was
5 designed, in whole or in part, to conceal or disguise the pride
6 of specified unlawful activity. Here, the specified unlawful
7 activity is sex trafficking and extortion.

8 To prove money laundering, the government must
9 establish the following four elements beyond a reasonable
10 doubt:

11 First, that Mr. Ray or a coconspirator conducted or
12 attempted to conduct a financial transaction which must in some
13 way or degree have affected interstate or foreign commerce;

14 Second, that the financial transaction at issue
15 involved the proceeds of specified unlawful activity, which
16 here was sex trafficking and in extortion;

17 Third, that Mr. Ray or the coconspirator, whichever
18 the case may be, knew that the financial transaction involved
19 the proceeds of some form of unlawful activity; and

20 Fourth, that such person knew that the transaction was
21 designed, in whole or in part, either to conceal or disguise
22 the nature, location, source, ownership, or control of the
23 proceeds of the unlawful activity.

24 I have already instructed you generally as to the
25 meaning of aiding and abetting under federal law, and you

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1 should apply those instructions here.

2 The first element of money laundering is that Mr. Ray
3 or a coconspirator conducted or attempted a financial
4 transaction.

5 The term conducts includes the action of initiating,
6 concluding, or participating in initiating or concluding a
7 transaction.

8 The term financial transaction means: (1) a
9 transaction involving a financial institution which is engaged
10 in, or the activities of which affect, interstate or foreign
11 commerce in any way or degree or (2) a transaction which in any
12 way or degree affects interstate or foreign commerce and
13 involves the movement of funds by wire or other means, or
14 involves one or more monetary instruments. I instruct you that
15 an insurance bank constitutes a financial institution.

16 A transaction involving a financial institution
17 includes a deposit, withdrawal, transfer between accounts,
18 exchange of currency, loan, extension of credit, purchase or
19 sale of any stock, bond, certificate or other monetary
20 instrument, use of a safe deposit box, or any other payment,
21 transfer, or delivery by, through, or to a financial
22 institution by whatever means.

23 The term funds includes any currency, money, or other
24 medium of exchange that can be used to pay for goods or
25 services.

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I previously instructed you on the definition of interstate commerce, and you should apply that definition here. Foreign commerce means commerce between the United States and a foreign country. As with determining whether someone is engaged in, or whether his activities affect interstate commerce, when determining whether someone is engaged in, or whether his activities affect foreign commerce, the involvement in foreign commerce can be minimal. Any involvement at all will satisfy this element.

You do not have to decide whether the effect on interstate or foreign commerce was harmful or beneficial to a particular business or to commerce in general. The government satisfies its burden of proving an effect on interstate or foreign commerce if it proves beyond a reasonable doubt any effect, whether it was harmful or not. In addition, it is not necessary for the government to show that Mr. Ray or the coconspirator actually intended or anticipated an effect on interstate or foreign commerce by his actions or that commerce was actually affected. All that is necessary is that the natural and probable consequences of the acts such person agreed to take would affect interstate or foreign commerce.

The second element of money laundering which the government must prove beyond a reasonable doubt is that the financial transactions thus involve the proceeds of specified unlawful activity.

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1 Here, the specified unlawful activities are sex
2 trafficking and federal extortion. I instruct you, as a matter
3 of law, that the term specified unlawful activity includes sex
4 trafficking and federal extortion, as I have defined those
5 crimes for you. The term proceeds means any property, or any
6 interest in property, that someone acquires or retains as
7 profits resulting from the commission of the specified unlawful
8 activity. However, it is for you to determine whether the
9 funds were the proceeds of that unlawful activity. I
10 previously advised you about the elements of federal extortion
11 and sex trafficking. You should apply those instructions here.

12 The third element of money laundering which the
13 government must prove beyond a reasonable doubt is that Mr. Ray
14 or a coconspirator knew that the financial transactions at
15 issue involved the proceeds of some form, though not
16 necessarily which form, of unlawful activity. Keep in mind, it
17 is not necessary for such person to believe that the proceeds
18 came from sex trafficking or extortion. It is sufficient that
19 such person believed that the proceeds came from some unlawful
20 activity that was a felony.

21 The fourth and final element of money laundering
22 concerns the purpose of the transaction. Specifically, the
23 government must prove beyond a reasonable doubt that Mr. Ray or
24 a coconspirator conducted financial transactions with knowledge
25 that the transactions were designed, in whole or in part, to

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1 conceal or disguise the nature, location, source, ownership, or
2 control of the proceeds of the specified unlawful activity.

3 As I have previously instructed, to act knowingly
4 means to act intentionally and voluntarily and not because of
5 mistake or accident, mere negligence or other innocent reason.
6 That is, the acts must be the product of Mr. Ray's or the
7 coconspirator's conscious objective.

8 If you find that the evidence establishes beyond a
9 reasonable doubt that Mr. Ray or a coconspirator knew the
10 purpose of the particular transaction in issue and that the
11 transaction was either designed to conceal or disguise the true
12 origin of the property in question, then this element is
13 satisfied. However, if you find that such person knew of the
14 transaction but did not know that it was either designed to
15 conceal or disguise the true origin of the property in
16 question, but instead thought that the transaction was intended
17 to further an innocent transaction, you must find that this
18 element has not been satisfied and find Mr. Ray not guilty.

19 For the fourth element to be satisfied, Mr. Ray or the
20 coconspirator need not know which specified unlawful activity
21 he or she was agreeing to help conceal. Such person need only
22 know that a purpose of the financial transaction was concealing
23 the nature, location, source, ownership, or control of the
24 funds.

25 The eighth category of predicate acts the indictment

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1 alleges was committed or was intended to be committed as part
2 of the RICO conspiracy was witness tampering, in violation of
3 Title 18, United States Code, Section 1512, and aiding and
4 abetting the same. The relevant statute is 18 U.S.C. Section
5 1512(c)(2). It provides: Whoever obstructs, influences, or
6 impedes any official proceeding, or attempts to do so, shall be
7 guilty of a crime.

8 In order for you to find that a person tampered with a
9 witness in violation of Section 1512, the government must prove
10 beyond a reasonable doubt that: First, that Mr. Ray or a
11 coconspirator obstructed, influenced, or impeded an official
12 proceeding; and second, that such person acted corruptly.

13 The first element that the government must prove
14 beyond a reasonable doubt is that the defendant or a
15 coconspirator obstructed, influenced, or impeded an official
16 proceeding.

17 An official proceeding means a proceeding before a
18 court, judge, or federal agency. The proceeding may be civil
19 or criminal. The law does not require that a criminal
20 proceeding be pending at the time of the person's actions, as
21 long as the proceeding was foreseeable, such that the person
22 knew that his actions were likely to affect the proceeding. In
23 addition, the government does not have to prove that the person
24 knew the nature of the proceeding.

25 The second element the government must prove beyond a

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1 reasonable doubt is that the person acted corruptly. To act
2 corruptly means to act with an improper purpose and to engage
3 in conduct knowingly and dishonestly and with the intent to
4 obstruct, impede, or influence the due administration of
5 justice. The government does not have to prove that Mr. Ray or
6 coconspirator directly impeded or attempted to impede directly
7 an efficient proceeding. In addition, the actions need not be
8 successful in impeding or obstructing justice so long as the
9 acts had the natural and probable consequence of interfering
10 with an official proceeding that was foreseeable, even if not
11 pending.

12 I've already instructed you generally as to the
13 meaning of aiding and abetting under federal law, and you
14 should apply those instructions here.

15 The ninth category of predicate acts that the
16 indictment alleges was committed or was intended to be
17 committed as part of the RICO conspiracy is obstruction of
18 justice, in violation of Title 18, United States Code, Section
19 1503, and aiding and abetting the same. The statute provides,
20 in relevant part: Whoever, by threats or force, endeavors to
21 influence, intimidate, or impede any grand or petit juror or
22 officer in or of any court of the United States or by threats
23 or force, influences, obstructs, or impedes, or endeavors to
24 influence, obstruct or impede the due administration of justice
25 shall be guilty of a crime.

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1 The due administration of justice mentioned in the
2 statute refers to the fair, impartial, uncorrupted, and
3 unimpeded investigation, prosecution, disposition, or trial of
4 any matter, civil or criminal, in the courts of the United
5 States. It includes every step in a matter or proceeding in
6 the federal courts to assure the just consideration and
7 determination of the rights of the parties, whether government
8 or individual.

9 Thus, due administration of justice includes, but is
10 not limited to, a grand jury proceeding or investigation, or a
11 federal, civil, or criminal trial.

12 The sweep of the statute extends to any corrupt
13 endeavor or effort to interfere with a grand juror, juror, or
14 federal judge, magistrate, or other officer in the discharge of
15 his or her duties.

16 The key word in the statute is endeavor. As used in
17 this statute, endeavor means any effort or any act, however
18 contrived, to obstruct, impede or interfere with the trial or
19 grand jury proceeding. It is the endeavor that is the gist of
20 the crime.

21 Success of the endeavor is not an element of the
22 crime. Any effort, whether successful or not, that is made for
23 the purpose of corrupting obstructing or impeding the
24 proceeding is condemned.

25 The word corruptly as used in the statute means simply

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1 having the improper motive or purpose of obstructing justice.

2 In order for the offense of construction of justice to
3 be considered as a racketeering act, the government must prove
4 Mr. Ray or a coconspirator agreed to commit or committed each
5 element of obstruction of justice beyond a reasonable doubt.

6 First, that on or about the date set forth in the
7 indictment, there was a proceeding pending before a federal
8 court or grand jury; second, that Mr. Ray or the coconspirator,
9 whichever the case may be, knew of the proceeding; third, that
10 such person used threats or force against the individuals as
11 charged in the indictment; and, fourth, that such person's
12 conduct influenced, obstructed, or impeded or endeavored to
13 influence or obstruct or impede the due administration of
14 justice in the proceeding, as I have defined those terms.

15 I have already instructed you generally as to the
16 meaning of aiding and abetting under federal law, and you
17 should apply that term here.

18 The first element the government must prove beyond a
19 reasonable doubt is that on or about the date set forth in the
20 indictment, there was a proceeding pending before a federal
21 court or grand jury.

22 The second element the government must prove beyond a
23 reasonable doubt is that Mr. Ray or a coconspirator knew that
24 such proceeding was in progress. In order to satisfy this
25 element, you need only determine that Mr. Ray or the

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1 coconspirator knew, on or about the date charged, that a
2 proceeding before a federal court or grand jury was in
3 progress.

4 The third element the government must prove beyond a
5 reasonable doubt is that Mr. Ray or a coconspirator used
6 threats or force against a witness.

7 It is not necessary for the government to prove that
8 Mr. Ray or a coconspirator personally injured anyone. It is
9 sufficient to satisfy this element if you find that Mr. Ray
10 knowingly used force or threats.

11 I have already instructed you on the meaning of
12 knowingly, and you should apply that definition here.

13 The fourth element the government must prove beyond a
14 reasonable doubt is that Mr. Ray's or a coconspirator's conduct
15 influenced, obstructed, or impeded, or endeavored to influence,
16 or obstruct or impede the due administration of justice in the
17 proceeding.

18 As I have stated previously, the due administration of
19 justice refers to the fair, impartial, uncorrupted, and
20 unimpeded investigation, prosecution, disposition, or trial of
21 any matter in the courts of the United States. It includes
22 every step in a matter or proceeding in the federal courts to
23 assure that just consideration and determination of the rights
24 of the parties, whether government or individual.

25 That concludes the final predicate act alleged.

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1 Please remember that as to all the kinds of predicate
2 racketeering acts described above, the government must prove
3 beyond a reasonable doubt that Mr. Ray or a coconspirator
4 agreed to commit or committed at least two related acts of any
5 of these kinds as part of the continuing conduct of the
6 enterprise. You must unanimous as to which two or more such
7 predicate acts you find they agreed to commit.

8 The government has alleged a special sentencing factor
9 with respect to Count One. If you find Mr. Ray is not guilty
10 of Count One, then you don't need to consider this factor. If
11 you find him guilty of Count One, you must consider whether the
12 government has proven that Mr. Ray is guilty of this special
13 sentencing factor. I have already instructed you on the law
14 governing sex trafficking in connection with the third category
15 of predicate acts of the racketeering conspiracy charged in
16 Count One, and you should follow those instructions here. To
17 find Mr. Ray guilty of the special sentencing factor, you must
18 find beyond a reasonable doubt that Mr. Ray engaged in sex
19 trafficking of Claudia Drury as part of his agreement to
20 conduct and participate in the enterprise through a pattern of
21 racketeering activity.

22 I will now charge you on the remaining counts of the
23 indictment, each of which charges the defendant with either
24 conspiring to engage in a federal crime or with committing a
25 federal crime.

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With respect to the counts that charge a conspiracy, you must find that the defendant conspired to commit the federal crime as I have instructed you on the law of federal conspiracy. With respect to the counts that charge commission of a federal crime, you must find that the defendant either committed the federal crime or aided and abetted the commission of the federal crime. I have also instructed you generally as to the meaning of aiding and abetting under federal law, and you should apply those instructions here.

Count Two of the indictment charges the defendant with conspiracy to commit extortion between 2011 and 2019, by agreeing with others to extort money from individuals.

The object of the conspiracy charged in Count Two of the indictment is extortion. I have already instructed you on the law governing federal extortion in connection with the first category of predicate acts of the racketeering conspiracy charged in Count One, and you should follow those instructions here. To find Mr. Ray guilty of Count Two, you must find that the government has proven beyond a reasonable doubt that Mr. Ray agreed with at least one other person to commit extortion.

Count Three of the indictment charges Mr. Ray with extorting a person between 2011 and 2019 and aiding and abetting the same. I've already instructed you on the law governing federal extortion in connection with the first

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category of the predicate acts of the racketeering conspiracy charged in Count One, and you should follow those instructions here. To find Mr. Ray guilty of extortion, you must find beyond a reasonable doubt that Mr. Ray committed or aided and abetted the commission of each of the elements of federal extortion as to Claudia Drury.

Count Four of the indictment charges Mr. Ray with sex trafficking between 2011 and 2019 and aiding and abetting the same.

I have already instructed you on the law governing sex trafficking in connection with the third category of predicate acts of the racketeering conspiracy charged in Count One, and you should follow those instructions here. To find Mr. Ray guilty of the crime of sex trafficking charged in Count Four, you must find beyond a reasonable doubt that Mr. Ray committed or aided and abetted the commission of each of the elements of sex trafficking.

Count Five of the indictment charges Mr. Ray with conspiracy to commit sex trafficking between 2011 and 2019 by agreeing with others to sex-traffic a person.

To find Mr. Ray guilty of Count Five, you must find that the government has proven beyond a reasonable doubt that: (1) from in or about 2011, up to and including in or about 2019, there was an agreement or understanding among two or more persons to sex-traffic a person, and (2) that Mr. Ray

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1 unlawfully, intentionally, and knowingly became a member of the
2 conspiracy, that is, he knowingly joined in the conspiracy and
3 intentionally participated in it. I've already instructed you
4 regarding finding the existence of a conspiracy, and you should
5 apply those instructions here.

6 I've also already instructed you on the law governing
7 sex trafficking, and you should follow those instructions here.

8 In determining whether Mr. Ray intentionally
9 participated in that conspiracy, with knowledge of its unlawful
10 purpose and with the intent to further its unlawful objectives,
11 you must ask whether the government has proven beyond a
12 reasonable doubt that Mr. Ray knowingly and intentionally
13 entered into the conspiracy with criminal intent; that is, with
14 the purpose to violate the law and that he agreed to take part
15 in the conspiracy, to promote and cooperate in its unlawful
16 objectives.

17 Count Six of the indictment charges Mr. Ray with
18 obtaining forced labor between in or about May 2013 and in or
19 about December of 2013, and aiding and abetting the same.

20 I have already instructed you on the law governing
21 forced labor in connection with the fourth category of
22 predicate acts of the racketeering conspiracy charged in Count
23 One. You should follow those instructions here. To find
24 Mr. Ray guilty of forced labor charged in Count Six, you must
25 find beyond a reasonable doubt that Mr. Ray committed or aided

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1 and abetted the commission of each of the elements of forced
2 labor.

3 Count Seven of the indictment charges Mr. Ray with
4 forced labor trafficking between in or about May 2013 and in or
5 about December 2013, and aiding and abetting the same.

6 I have already instructed you on the law governing
7 forced labor trafficking in connection with the fifth category
8 of predicate acts of the racketeering conspiracy charged in
9 Count One, and you should follow those instructions here. To
10 find Mr. Ray guilty of forced labor trafficking, you must find
11 beyond a reasonable doubt that Mr. Ray committed or aided and
12 abetted the commission of each of the elements of forced labor
13 trafficking.

14 Count Eight of the indictment charges Mr. Ray with
15 conspiring to obtain forced labor between in or about May 2013
16 and in or about December 2013, by agreeing with others to
17 obtain forced labor from individuals.

18 To find Mr. Ray guilty of Count Eight, you must find
19 that the government has proven beyond a reasonable doubt that
20 between in or about May 2013, and in or about December 2013,
21 there was an agreement or understanding among two or more
22 persons to obtain forced labor from individuals; (2) that Ray
23 unlawfully, intentionally, and knowingly became a member of the
24 conspiracy, that is, he knowingly joined in the conspiracy and
25 intentionally participated in it.

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I've already instructed you regarding finding the existence of a conspiracy, and you should apply those instructions here. I have also already instructed you on the law governing forced labor in connection with the fifth category of predicate acts of the racketeering conspiracy charged in Count One, and you should apply those instructions here.

You must also determine whether Mr. Ray intentionally participated in the conspiracy with knowledge of its unlawful purposes, and with the intent to further its unlawful objectives. In connection with this, you must consider whether the government has proven beyond a reasonable doubt that Mr. Ray knowingly and intentionally entered into the conspiracy with criminal intent, that is, with a purpose to violate the law, and that he agreed to take part in the conspiracy to promote and cooperate -- promote its unlawful objectives.

Count Nine of the indictment charges Mr. Ray with using interstate facilities to promote unlawful activity, in violation of the Travel Act, which we have already discussed.

Specifically, Count Nine charges that: Between in or about 2014 and in or about 2019, Mr. Ray used interstate facilities to carry on criminal business engaged in sex trafficking, in violation of federal law and prostitution, in violation of New York Penal Law, Sections 230, 230.02, 230.25, 230.30.

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I've already instructed you on the law governing the Travel Act and sex trafficking in connection with the predicate acts of the racketeering conspiracy charged in Count One, and you should follow those instructions here.

To find Mr. Ray guilty of the crime of using interstate facilities to promote unlawful activity, you must find that the government has proven beyond a reasonable doubt that Mr. Ray committed or aided and abetted or attempted to commit, as I have described above, the commission of each of the elements of using interstate facilities to promote unlawful activity.

The defendant has also been charged with using an interstate facility to facilitate a criminal business engaged in prostitution and promoting prostitution, in violation of New York law. The government must prove to you beyond a reasonable doubt that the activities Mr. Ray intended to facilitate were in fact unlawful under New York's penal law, as I described above.

Count Nine alternatively charges Mr. Ray with attempting to use an interstate facility to promote an unlawful activity.

In order to find Mr. Ray guilty of Count Nine under an attempt theory, the government must prove beyond a reasonable doubt that: (1) Mr. Ray intended to commit the crime charged, as I have described that crime to you and (2) Mr. Ray willfully

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1 took some action that was a substantial step in an effort to
2 bring about or accomplish the crime.

3 Mere intention to commit a specific crime does not
4 amount to an attempt. In order to convict Mr. Ray of an
5 attempt, you must find beyond a reasonable doubt that he
6 intended to commit the crime charged, and he took some action
7 which was a substantial step towards the commission of that
8 crime.

9 In determining whether Mr. Ray's actions amounted to a
10 substantial step toward the commission of the crime, you must
11 distinguish between mere preparation on the one hand and the
12 actual doing of the criminal deed on the other. Mere
13 preparation, without more, is not an attempt. On the other
14 hand, some preparations, when taken together, may amount to an
15 attempt. The act of a person who intends to commit a crime
16 will constitute an attempt when the acts themselves indicate an
17 intent to willfully commit the crime, and the acts are a
18 substantial step in the course of conduct planned to culminate
19 in the commission of the crime.

20 There is no requirement that the attempt be successful
21 or that Mr. Ray actually have carried out the crime he was
22 trying to commit.

23 If you find beyond a reasonable doubt that Mr. Ray
24 attempted to commit the crimes charged in Count Nine, then he
25 is guilty with respect to that count.

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1 Count Ten of the indictment charges Mr. Ray with money
2 laundering between in or about 2011 and in or about 2019 and
3 aiding and abetting the same.

4 Specifically, the indictment alleges Mr. Ray conducted
5 and attempted to conduct financial transactions involving the
6 proceeds of extortion and sex trafficking, knowing that the
7 transactions were designed, in whole or in part, to conceal and
8 disguise the nature, location, source, ownership, and control
9 of the proceeds of sex trafficking and extortion, and to avoid
10 a transaction reporting requirement under state and federal
11 law.

12 I have already instructed you on the law governing
13 money laundering in connection with the seventh category of
14 predicate acts of the racketeering conspiracy charged in Count
15 One, and you should follow those instructions here. To find
16 Mr. Ray guilty of money laundering, you must find that the
17 government has proven beyond a reasonable doubt that Mr. Ray
18 committed or aided and abetted the commission of money
19 laundering.

20 Counts Eleven through Fourteen of the indictment
21 charge that Mr. Ray committed tax evasion for the calendar
22 years 2016, 2017, 2018, and 2019, in violation of Section 7201
23 of Title 26 of the United States Code.

24 That section provides as follows in relevant part:
25 Any person who willfully attempts in any manner to evade or

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1 defeat any tax imposed by this title or the payment thereof
2 shall be guilty of a crime.

3 Count Eleven charges tax evasion for the calendar year
4 2016 with respect to income received in calendar year 2016 and
5 Mr. Ray's failure to make an income tax return on or before
6 April 15, 2017.

7 Count Twelve charges the same with respect to income
8 received in calendar year 2017, and Mr. Ray's failure to make
9 an income tax return on or before April 15, 2018.

10 Count Thirteen charges the same with respect to income
11 received in calendar year 2018 and Mr. Ray's failure to make an
12 income tax return on or before April 15, 2019.

13 Count Fourteen charges the same with respect to income
14 received in calendar year 2019 and Mr. Ray's failure to make an
15 income tax return on or before July 15, 2020.

16 Each of these counts, Eleven through Fourteen, involve
17 tax crimes. It is a criminal offense for a taxpayer to evade
18 taxes, to file a false return, or to file no return under
19 certain circumstances.

20 A preliminary word about what this case is not about.
21 It has nothing to do with the actual collection of any taxes
22 that may be due to the government. This is a criminal case.
23 We are not concerned with civil liability. Rather, the issue
24 here is whether the government has proved beyond a reasonable
25 doubt that the defendant committed the tax crimes charged in

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1 the indictment.

2 To sustain its burden of proof with respect to the
3 charges of tax evasion in Counts Eleven through Fourteen of the
4 time, the government must prove beyond a reasonable doubt the
5 following three elements:

6 First, that a substantial amount of income tax was due
7 and owing from the defendant for each year in question;

8 Second, that Mr. Ray committed an affirmative act
9 constituting an evasion or attempted evasion of assessment of
10 the tax, as described in the indictment; and

11 Third, that in evading or attempting to evade the
12 assessment of taxes due and owing for the year in question,
13 Mr. Ray acted knowingly and willfully.

14 As I mentioned earlier, willfully means something
15 slightly different in the tax evasion context, and I will
16 instruct you on that shortly.

17 The indictment charges four separate tax evasion
18 counts. Each count, and therefore each calendar year, 2016,
19 2017, 2018, and 2019, must be considered separately.

20 The first element of the offense that the government
21 must prove beyond a reasonable doubt is that Mr. Ray had a
22 substantial tax due and owing for the year in question.

23 For each of these counts, Eleven through Fourteen, the
24 indictment alleges that Mr. Ray failed to file a timely federal
25 income tax return. This element is satisfied as to Counts

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1 Eleven through Fourteen if you find that Mr. Ray failed to file
2 a timely federal income tax return for the year in question,
3 despite owing a substantial amount of federal income tax for
4 that year. I instruct you that the law requires the filing of
5 a timely return, and a tax return filed months or years late
6 does not constitute a timely filing.

7 Again, each count and, thus, each year must be
8 considered separately.

9 The government does not have to prove the exact amount
10 of taxes that Mr. Ray owed or evaded for these years, nor need
11 the computations be exact in an accounting sense. All it has
12 to do is prove that there is a substantial amount of tax due.

13 In addition, the government does not have to prove
14 that Mr. Ray attempted to evade or defeat payment of all of the
15 taxes owed for those years. Instead, the government need only
16 prove that the amount owed for each of the tax years was
17 substantial and that Mr. Ray attempted to evade or defeat all
18 or a substantial part of the taxes owed.

19 Whether the amount of tax due is substantial is an
20 issue for you to decide. Substantiality is not measured in
21 terms of gross or net income or by any particular percentage of
22 the tax shown to be due and payable. All of the attendant
23 circumstances must taken into consideration. A few thousand
24 dollars of evaded tax may or may not, in a given case, be
25 considered substantial, depending on the circumstances.

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To prove that a substantial tax was due, the government must prove beyond a reasonable doubt two things: (1) that Mr. Ray received unreported or incorrectly reported income and (2) that there was a substantial tax due, or substantial additional tax due, as a result of the receipt of that unreported or incorrectly reported income.

An unlawful gain, as well as a lawful one, constitutes taxable income when the recipient derives readily realizable economic value from it.

In considering your decision on whether Mr. Ray owed substantial federal income taxes in the year you are considering, you should consider, along with all the other evidence, the testimony and exhibits introduced during the trial concerning the computation of Mr. Ray's tax liabilities.

If you find, based on all the evidence, that the government has established beyond a reasonable doubt that Mr. Ray received unreported income and, as a result of that income, there was a substantial amount of tax due and owing, then the first element is satisfied with respect to the year you are considering.

The second element of the tax evasion offense the government must prove beyond a reasonable doubt is that Mr. Ray committed an affirmative act constituting an evasion, or an attempted evasion of the assessment of the tax, as described in the indictment.

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The phrase attempt to evade or defeat an income tax involves two things: First, the formation of an intent to evade or defeat a tax or the payment thereof; and, second, willfully performing some act to accomplish the intent to evade or defeat that tax.

Counts Eleven through Fourteen allege that Mr. Ray knew and believed that in each of the years 2016, 2017, 2018, and 2019, he had substantial taxable income upon which there was a substantial amount of tax due, and he treated in some way to evade a substantial portion of the tax due and owing for each of those years.

Therefore, to prove these counts the government must prove beyond a reasonable doubt that, for each year charged, Mr. Ray intended to evade or defeat a substantial portion of the tax due, and willfully committed some act designed to misrepresent or conceal his income from the IRS.

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1 THE COURT: Now, the mere failure to do what the law
2 requires is not an affirmative act. Thus, failing to file
3 income tax returns and failing to pay income taxes, standing
4 alone, are not sufficient by themselves to make out the
5 affirmative act of attempting to evade or defeat taxes. The
6 defendant must do something more to be guilty of tax evasion.

7 There are many different ways in which a tax may be
8 evaded or an attempt made to evade it. The statute,
9 Section 7201 of the United States Code, provides that the
10 attempt can be "in any manner." A general rule is that any
11 conduct, the likely effect of which would be to mislead or
12 conceal for tax evasion purposes, is sufficient to establish an
13 affirmative act of attempting to evade or defeat income taxes.
14 The only requirement is that Mr. Ray must take some affirmative
15 action with that purpose in mind.

16 The defendant's conduct must be conduct that is likely
17 to misrepresent or conceal income from the IRS. Even an
18 otherwise lawful act can constitute an attempt to evade and
19 defeat if that act is performed by the defendant with the
20 intent to evade or defeat income tax.

21 Conduct that constitutes or is sufficient to establish
22 an affirmative attempt to evade a tax includes, but is not
23 limited to:

24 The making of false statements to the IRS;
25 Using third-party or entity bank accounts;

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1 Transferring income, money, or property in an attempt
2 to conceal ownership;

3 Causing debts to be paid through and in the name of
4 others;

5 Dealing extensively in cash;

6 Or any other conduct, the likely effect of which would
7 be to mislead or to conceal, including directing other
8 individuals to do any of the things that I've just mentioned.

9 In this case, the government alleges that the
10 defendant committed multiple affirmative acts of evasion. With
11 respect to the calendar years 2016 through 2019, the government
12 alleges that the defendant committed affirmative acts of
13 evasion by, among other things, routing his income through bank
14 accounts held by others, called nominees, and using the nominee
15 accounts to pay for personal expenses including to purchase
16 domain name registrations. The government must prove that
17 Mr. Ray committed some affirmative act during each tax year
18 charged constituting an attempt to evade. It need not prove
19 each act alleged in the indictment. The proof of one
20 affirmative act is enough. So, with regard to Counts Eleven
21 through Fourteen, the government must prove that Mr. Ray took
22 some affirmative step with respect to each of the years 2016,
23 2017, 2018, and 2019, with the intention of misrepresenting or
24 concealing income from the IRS. But you, the jury, must be
25 unanimous; in other words, for each tax year charged, you must

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1 all agree that Mr. Ray committed at least one affirmative act
2 that constituted the attempt to evade.

3 The third element that the government must prove
4 beyond a reasonable doubt is that Mr. Ray acted knowingly and
5 wilfully.

6 To show Mr. Ray acted knowingly, the government must
7 prove beyond a reasonable doubt that Mr. Ray knew that he owed
8 substantially more federal income tax for the year you are
9 considering than was declared on his income tax returns for
10 that year, or if no return was timely filed, that he knew he
11 owed a substantial amount of tax for the year. Whether or not
12 Mr. Ray had this knowledge is a question of fact to be
13 determined by you on the basis of all the evidence. An act is
14 done knowingly only if it is done purposely and deliberately
15 and not because of mistake, accident, negligence, or other
16 innocent reason.

17 The government must also prove beyond a reasonable
18 doubt that Mr. Ray acted wilfully. A willful act in this
19 context is defined as a voluntary and intentional violation of
20 a known legal duty. Thus, the government must prove beyond a
21 reasonable doubt that Mr. Ray was aware of this legal duty and
22 possessed the specific intent to defeat or evade the assessment
23 of taxes that Mr. Ray knew it was his duty to pay.

24 Mere negligence, even gross negligence, is not
25 sufficient to constitute willfulness. If Mr. Ray actually

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1 believed in good faith that he did not owe the taxes the
2 government claims he does, he cannot be guilty of criminal
3 intent to evade taxes. In other words, a defendant does not
4 act wilfully if he believes in good faith that his actions
5 comply with the law. Therefore, if you find that Mr. Ray
6 honestly and genuinely believed that he owed no additional
7 taxes for the years in question, even if that belief was
8 unreasonable or irrational, then you should find him not
9 guilty. However, you may consider whether Mr. Ray's belief was
10 actually reasonable in deciding whether he held that belief in
11 good faith.

12 The defendant does not have a burden to establish his
13 good faith. It is the government's burden to prove that
14 Mr. Ray did not have a good faith misunderstanding of the law.

15 There are certain inferences that the law allows you
16 to make in deciding the issue of willfulness in a tax evasion
17 case. The law does not require you to draw these inferences.
18 They are permissive, they are not mandatory, but you may draw
19 them if you wish. I instruct you that these inferences relate
20 only to the element of willfulness and not to any other element
21 that I have discussed with you.

22 During the trial, you heard evidence that the
23 defendant filed income tax returns for certain years prior to
24 2016. If you find that the defendant filed returns for those
25 years, you may infer that the defendant knew the law required

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1 him to make and file returns, and you may consider that as you
2 decide whether he wilfully failed to do so for the years
3 charged in the indictment.

4 The government has also offered evidence that Mr. Ray
5 failed to timely file income tax returns for four consecutive
6 years—2016 through 2019. Such a pattern of behavior, as
7 distinguished from a single occurrence, may be considered by
8 you in determining the defendant's willfulness.

9 A defendant's attitude towards the IRS, or the
10 reporting and payment of taxes generally, may be considered by
11 you in determining the defendant's willfulness.

12 If you find willfulness in one year, you may consider
13 that as evidence of willfulness in subsequent or prior years.

14 You've heard evidence that the defendant received
15 general information from a lawyer that monies received in
16 settlement of a claim for personal injury are not taxable even
17 if they were received from illegal activities. I will have
18 more to say about that issue in a moment. For now, I instruct
19 you that the fact that the defendant received that information
20 does not excuse his specific conduct if you find from all of
21 the evidence beyond a reasonable doubt that the defendant
22 nonetheless acted wilfully and knowingly. There is no advice
23 of counsel defense in this case. However, with respect to
24 conduct occurring after the date he received the information,
25 you are permitted to consider evidence of what Mr. Ray was told

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1 by the lawyer, along with all the other evidence in the case,
2 to determine whether the defendant acted wilfully and with
3 knowledge. You may not consider this evidence with respect to
4 any other charges or for any other purpose.

5 In deciding about the defendant's state of mind, you
6 should consider all the evidence that in your common sense and
7 experience bears on this question. You will want to consider
8 all of the words, acts, and conduct of the defendant in
9 deciding what he thought and what he intended. You may also
10 consider the general educational background and expertise of
11 the defendant, but only as it relates to the defendant's
12 ability to form the required willfulness.

13 To assist you in determining whether the defendant is
14 guilty or not guilty on Counts Eleven through Fourteen, I am
15 now going to instruct you concerning certain federal income tax
16 filing obligations.

17 The law of the United States requires, and required
18 during the relevant time frame, that a citizen or other person
19 who lives or works in the United States to file a tax return,
20 on or before April 15, if his or her gross income exceeded a
21 threshold amount. In 2020, for tax returns for the 2019 tax
22 year, that deadline was extended to July 15. The Internal
23 Revenue Code includes all income and all benefits received from
24 whatever source derived, including from illegal sources, as
25 gross income unless expressly excluded by some other provision

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1 of the Internal Revenue Code.

2 The value of property acquired by gift or as a loan is
3 not considered gross income for tax purposes under the Internal
4 Revenue Code. Money paid by one person to or for the benefit
5 of another is a gift if it is paid out of a detached and
6 disinterested generosity, affection, respect, admiration,
7 charity, or a like impulse.

8 The Internal Revenue Code also excludes from gross
9 income the amount of any damages (other than punitive damages)
10 received (whether by suit or agreement and whether as lump sums
11 or as periodic payments) on account of personal physical
12 injuries or physical sickness and damages for emotional
13 distress attributable to a physical injury or physical
14 sickness, with certain exceptions. Emotional distress itself
15 is not considered a physical injury or physical sickness.

16 "Damages" means an amount that is received through
17 prosecution of a legal suit or action, or through a settlement
18 agreement entered into in lieu of prosecution. This exclusion
19 applies to damages that are paid pursuant to a written binding
20 agreement, court decree, or mediation award entered into or
21 issued after September 13, 1995, and received after January 23,
22 2012.

23 An agreement is a manifestation of mutual assent on
24 the part of two or more persons. A settlement agreement is for
25 damages "on account of personal physical injuries or physical

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sickness" as long as it is to compensate for damages actually incurred on account of personal physical injuries or personal physical sickness and is to settle a tort or tort-like claim even if the legal claim is not viable or if the claim's validity is doubtful because of some uncertainty about the facts or the law. The claim need not have been asserted and the settling party need not have released the nonsettling party. It is sufficient that the settling party have agreed to forbear, for any period of time, from asserting the claim. However, I also instruct you that if the claim is not even doubtful, or colorable, or plausible, in that there is no reason for an honest belief that it has some foundation in law or in equity, then a claim to settle it is not a valid settlement agreement even if it is for damages actually incurred. Thus, if the person has a good-faith belief that the legal claim is valid—even if it is in fact not—the forbearance is what is called consideration and is sufficient to support the existence of an agreement; if he does not, there is no consideration and no binding agreement.

It is the theory of the defense that the defendant believed he was the victim of a conspiracy. The defendant asserts that he believed that he and others had been poisoned and otherwise harmed as part of this conspiracy and he attempted to learn the extent of this poisoning and other harm. Mr. Ray asserts that he collected recordings and other writings

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1 for the purpose of turning these materials over to law
2 enforcement to investigate the poisoning. It is the theory of
3 the defense that Mr. Ray believed he was permitted to accept
4 this repayment, even if the money he was paid was the proceeds
5 of prostitution, and did not need to report these funds as
6 taxable income. With respect to the tax evasion counts, I
7 instruct you that if you find that the government has not
8 proven beyond a reasonable doubt that the defendant acted
9 wilfully, in violation of a known legal duty and with the
10 specific intent to defeat or evade the assessment of taxes that
11 the defendant knew it was his duty to pay, then you must find
12 the defendant not guilty of the crime of tax evasion charged in
13 Counts Eleven through Fourteen of the indictment.

14 Count Fifteen charges Mr. Ray with assault with a
15 dangerous weapon in aid of the racketeering enterprise charged
16 in Count One. Mr. Ray is charged with violating Section 1959
17 of Title 18 of the United States Code. That section reads as
18 follows:

19 "Whoever, as consideration for receipt of, or as
20 consideration for a promise or agreement to pay, anything of
21 pecuniary value from an enterprise engaged in racketeering
22 activity, or for the purpose of gaining entrance to or
23 maintaining or increasing position in an enterprise engaged in
24 racketeering activity, murders, kidnaps, maims, assaults with a
25 dangerous weapon, commits assault resulting in serious bodily

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1 injury upon, or threatens to commit a crime of violence against
2 any individual in violation of the laws of any state or the
3 United States, or attempts or conspires to do so."

4 To find Mr. Ray guilty of Count Fifteen, the
5 government must establish beyond a reasonable doubt each of the
6 following elements:

7 First, that the enterprise charged in Count One
8 existed and that it engaged in or its activities affected
9 interstate commerce;

10 Second, that the enterprise was engaged in
11 racketeering activity;

12 Third, that Mr. Ray had (or was seeking) a position in
13 the enterprise;

14 Fourth, that Mr. Ray committed assault with a
15 dangerous weapon; and

16 Fifth, that Mr. Ray's general purpose in committing
17 this offense was to gain entrance to the enterprise or maintain
18 or increase his position in the enterprise.

19 I have already defined for you in connection with
20 Count One the concepts of the enterprise, racketeering
21 activity, and interstate commerce, and you should apply those
22 instructions here.

23 To establish the third element, the government must
24 establish beyond a reasonable doubt that Mr. Ray had (or was
25 seeking) a position in the enterprise. To establish this

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1 element, the government must prove that Mr. Ray was actively
2 engaged in promoting the illegal activities of the enterprise.
3 It is not enough to prove that Mr. Ray was doing business with
4 the enterprise; the government must prove that he actually was
5 a member of the enterprise.

6 The fourth element the government must prove beyond a
7 reasonable doubt with respect to Count Fifteen is Mr. Ray
8 committed assault with a dangerous weapon. Let me now instruct
9 you on the elements of an assault with a dangerous weapon.

10 Assault with a dangerous weapon may be committed in
11 two ways.

12 Under New York State law, a person is guilty of
13 assault with a dangerous instrument if the government proves
14 beyond a reasonable doubt:

15 First, that Mr. Ray caused physical injury to another
16 person by means of a dangerous instrument; and

17 Second, that he did so with the intent to cause
18 serious physical injury.

19 Assault with a dangerous weapon may also be committed
20 by committing menacing. Under New York State law, a person is
21 guilty of committing menacing if the government proves beyond a
22 reasonable doubt:

23 First, that Mr. Ray placed or attempted to place
24 another person in reasonable fear of physical injury, serious
25 physical injury, or death by displaying a dangerous instrument;

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1 and

2 Second, that Mr. Ray did so intentionally.

3 Count Fifteen charges.

4 Under New York State law, a person intends to cause
5 physical injury to another person when his conscious objective
6 is to cause physical injury to another person. "Physical
7 injury" means impairment of a person's physical condition or
8 substantial pain.

9 A "dangerous instrument" is any instrument, article,
10 or substance that, under the circumstances in which it is used,
11 attempted to be used, or threatened to be used, is readily
12 capable of causing death or other serious physical injury,
13 although death or other serious physical injury need not, in
14 fact, be caused. Almost any object which, as used or attempted
15 to be used, may endanger life or inflict great bodily harm can
16 be a dangerous instrument.

17 The fifth element the government must prove beyond a
18 reasonable doubt with respect to Count Fifteen is that
19 Mr. Ray's general purpose in committing the assault was to gain
20 entrance to the charged enterprise, or to maintain or increase
21 his position within that enterprise.

22 Your focus on this element is on the general purpose
23 of Mr. Ray. The government does not need to prove that gaining
24 entrance to or maintaining or increasing his position in the
25 enterprise was that person's sole or principal motive so long

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1 as one of those purposes was a substantial motivating factor in
2 his decision to participate in the underlying crime or crimes.
3 In determining whether the defendant's purpose in committing
4 the assault was to maintain or increase his position in the
5 enterprise, you should give the words "maintain" and "increase"
6 their ordinary meanings. You should consider all of the facts
7 and circumstances in making that determination. For example,
8 this element is satisfied if you find that the person committed
9 the underlying crime because he knew it was expected of him by
10 reason of his membership in or association with the enterprise,
11 because it would maintain or enhance his position or prestige
12 in the enterprise, or, with respect to a high-ranking member of
13 the enterprise, if he committed or sanctioned the act of
14 violence to protect the enterprise's operations or to advance
15 its objectives. This element could also be satisfied if you
16 find that the person committed the underlying crime to enhance
17 his reputation or wealth within the enterprise, or to avoid
18 losing power within the enterprise. This list of examples is
19 not exhaustive.

20 That completes my description for substantive
21 offenses.

22 In addition to the elements that I have just described
23 to you, you must decide whether any act in furtherance of each
24 of the crimes charged occurred within the Southern District of
25 New York. The Southern District of New York includes, among

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1 other places, Manhattan and Bronxville.

2 I should note that on this issue—and this issue
3 alone—the government need not prove venue beyond a reasonable
4 doubt, but only by a mere preponderance of the evidence. A
5 preponderance of the evidence means that the government must
6 prove that it is more likely than not that any act in
7 furtherance of the conspiracy occurred in the Southern District
8 of New York. Thus, the government has satisfied its venue
9 obligations if you conclude that it is more likely than not
10 that any act in furtherance of the crime with which Mr. Ray is
11 charged occurred within this district.

12 If you find that the government has failed to prove
13 this venue requirement with respect to a particular charge,
14 then you must acquit Mr. Ray of that charge.

15 I'm now going to briefly discuss evaluating the
16 credibility of witnesses.

17 You have had the opportunity to observe the witnesses.
18 It is now your job and will be your job to decide how
19 believable or credible each witness was in his or her
20 testimony. You are the sole judges of the credibility of each
21 witness, and of the importance of his or her testimony. How do
22 you judge the credibility of witnesses? There is no magic
23 formula.

24 You should carefully scrutinize all of the testimony
25 of each witness, the circumstances under which each witness

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1 testified, the impression the witness made when testifying, the
2 relationship of the witness to the controversy and the parties,
3 the witness's bias or impartiality, the reasonableness of the
4 witness's statement, the strength or weakness of the witness's
5 recollection viewed in light of all of the other testimony and
6 evidence, and any other matter in evidence that may help you to
7 decide the truth and the importance of each witness's
8 testimony.

9 In other words, what you must try to do, in deciding
10 credibility, is to size a witness up in light of his or her
11 demeanor, the explanations given, and all of the other evidence
12 in the case. You should use your common sense, your good
13 judgment, and your everyday experiences in life to make up
14 credibility determinations.

15 In passing upon the credibility of a witness, you may
16 also take into account any inconsistencies or contradictions as
17 to material matters in his or her testimony.

18 If you find that any witness has wilfully testified
19 falsely as to any material fact, you have the right to reject
20 the testimony of that witness in its entirety. On the other
21 hand, even if you find that a witness has testified falsely
22 about one matter, you may reject as false that portion of his
23 or her testimony and accept as true any other portion of the
24 testimony which commends itself to your belief or which you may
25 find corroborated by other evidence in this case. A witness

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1 may be inaccurate, contradictory, or even untruthful in some
2 aspects, and yet may be truthful and entirely credible in other
3 aspects of his or her testimony.

4 The ultimate question for you to decide in passing
5 upon credibility is did the witness tell the truth before you.
6 It is for you to say whether his or her testimony at trial is
7 truthful in whole or in part.

8 In deciding whether to believe a witness, you should
9 specifically note any evidence of hostility or affection that
10 the witness may have towards one of the parties. Likewise, you
11 should consider evidence of any other interest or motive that
12 the witness may have in cooperating with a particular party.
13 You should also take into account any evidence of any benefit
14 that a witness may receive from the outcome of the case.

15 It is your duty to consider whether the witness has
16 permitted any such bias or interest to color his or her
17 testimony. In short, if you find that a witness is biased, you
18 should view his or her testimony with caution, weigh it with
19 care, and subject it to close and searching scrutiny.

20 Of course, the mere fact that a witness is interested
21 in the outcome of the case does not mean he or she has not told
22 you the truth. It is for you to decide from your observations
23 and applying your common sense and experience and all the other
24 considerations mentioned whether the possible interest of any
25 witness has intentionally or otherwise colored or distorted his

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1 or her testimony. You are not required to disbelieve an
2 interested witness; you may accept as much of his or her
3 testimony as you deem reliable, and reject as much as you deem
4 unworthy of acceptance.

5 You have heard evidence that, at some earlier time,
6 witnesses have said or done something that counsel argues is
7 inconsistent with their trial testimony.

8 Evidence of a prior inconsistent statement was placed
9 before you not because it is itself evidence of the guilt or
10 innocence of the defendant, but only for the purpose of helping
11 you decide whether to believe the trial testimony of a witness
12 who may have contradicted a prior statement. If you find that
13 the witness made an earlier statement that conflicts with the
14 witness's trial testimony, you may consider that fact in
15 deciding how much of the witness's trial testimony, if any, to
16 believe.

17 In making this determination, you may consider whether
18 the witness purposely made a false statement or whether it was
19 an innocent mistake, whether the inconsistency concerns an
20 important fact, or whether it had to do with a small detail;
21 whether the witness had an explanation for the inconsistency,
22 and whether that explanation appealed to your common sense.

23 It is exclusively your duty, based upon all the
24 evidence and your own good judgment, to determine whether the
25 prior statement was inconsistent, and if so how much, if any,

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1 weight to give to the inconsistent statement in determining
2 whether to believe all, or part of, the witness's testimony.

3 You have heard evidence during the trial that
4 witnesses had discussed the facts of the case and their
5 testimony with the lawyers before the witnesses appeared in
6 court. Although you may consider that fact when you are
7 evaluating a witness's credibility, I should tell you that
8 there is nothing either unusual or improper about a witness
9 meeting with lawyers before testifying, so that the witness can
10 be made aware of the subjects that he or she will be questioned
11 about, focus on those subjects, and have the opportunity to
12 review relevant exhibits before being questioned about them.
13 In fact, it would be unusual for a lawyer to call a witness
14 without such consultation. Again, the weight you give to the
15 fact or the nature of the witness's preparation for his or her
16 testimony and what inferences you draw from such preparation
17 are matters completely within your discretion.

18 You have heard the testimony of several law
19 enforcement officials. The fact that a witness may be employed
20 as a law enforcement official does not mean that his or her
21 testimony is necessarily deserving of more or less
22 consideration or greater or lesser weight than that of an
23 ordinary witness.

24 It is your decision, after reviewing all the evidence,
25 whether to accept the testimony of the law enforcement witness

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1 and to give to that testimony whatever weight, if any, you find
2 it deserves.

3 You have heard the testimony of a witness who
4 testified under a grant of immunity from this Court, called
5 formal immunity. The testimony of such a witness may not be
6 used against such witnesses in any criminal case except in a
7 prosecution for perjury, giving a false statement, or otherwise
8 failing to comply with the immunity order of this Court. You
9 are instructed that the government is entitled to call as a
10 witness a person who has been granted immunity by order of this
11 Court. You should examine the testimony of such a witness as
12 you would any other witness, to determine whether or not it is
13 colored in any way to further the witness's own interests. If
14 you believe the testimony to be true, you may give it any
15 weight you believe it deserves.

16 The fact that one party called more witnesses and
17 introduced more evidence than the other does not mean that you
18 should necessarily find the facts in favor of the side offering
19 the most witnesses. By the same token, you do not have to
20 accept the testimony of any witness who has not been
21 contradicted or impeached, if you find the witness not to be
22 credible. You also have to decide which witnesses to believe
23 and which facts are true. To do this, you must look at all the
24 evidence, drawing upon your own common sense and personal
25 experience. I have just discussed the criteria for evaluating

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1 credibility. Keep in mind that the burden of proof is always
2 on the government and the defendant is not required to call any
3 witnesses or offer any evidence, since he is presumed to be
4 innocent.

5 Now Mr. Ray did not testify in this case. Under our
6 Constitution, a defendant has no obligation to testify or to
7 present any evidence, because it is the government's burden to
8 prove Mr. Ray guilty beyond a reasonable doubt. That burden
9 remains with the government throughout the entire trial and
10 never shifts to Mr. Ray. A defendant is never required to
11 prove that he is innocent.

12 You may not speculate as to why Mr. Ray did not
13 testify. There are many reasons why a defendant may decide not
14 to testify. You may not attach any significance to the fact
15 that Mr. Ray did not testify. No adverse inference against him
16 may be drawn by you because he did not take the witness stand.
17 You may not consider this against Mr. Ray in any way in your
18 deliberations in the jury room.

19 I have just a little bit more to do.

20 Certain witnesses were offered as experts and
21 permitted to express their opinions about matters that are in
22 issue. A witness may be permitted to testify to an opinion on
23 those matters about which he or she has special knowledge,
24 skill, experience, and training. Such testimony is presented
25 to you on the theory that someone who is experienced and

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1 knowledgeable in the field can assist you in understanding the
2 evidence or in reaching an independent decision on the facts.

3 In weighing this opinion testimony, you may consider
4 the witness's qualifications, his or her opinions, the reasons
5 for testifying, as well as all of the other considerations that
6 ordinarily apply when you are deciding whether or not to
7 believe a witness's testimony. You may give the opinion
8 testimony whatever weight, if any, you find it deserves in
9 light of all the evidence in this case. You should not,
10 however, accept the testimony of an expert merely because I
11 allowed the witness to testify as an expert. Nor should you
12 substitute it for your own reason, judgment, and common sense.
13 The determination of the facts in this case rests solely with
14 you.

15 You have heard the names of several people during the
16 course of the trial who did not appear here to testify and one
17 or more of the attorneys may have referred to their absence. I
18 instruct you that each party had an equal opportunity, or lack
19 of opportunity, to call any of these witnesses. However, the
20 government bears the burden of proof. Mr. Ray does not bear
21 the burden of proof. Therefore, you should not draw any
22 inference or reach any conclusions as to what these persons
23 would have testified to had they been called. Their absence
24 should not affect your judgment in any way.

25 You should, however, remember my instruction that the

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1 law does not impose on a defendant in a criminal case the
2 burden or duty of calling any witnesses or producing any
3 evidence.

4 You also may not draw any inference, favorable or
5 unfavorable, towards the government or towards Mr. Ray, from
6 the fact that certain persons were not named as a defendant in
7 the indictment here. In addition, you are not allowed to
8 speculate as to the reasons why other people are not on trial
9 before you now. The fact that these persons are not on trial
10 here must play no part in your deliberations.

11 Your function now is to weigh the evidence in this
12 case and to determine if the government has sustained its
13 burden of proof with respect to each count of the indictment.

14 You must base your verdict solely on the evidence, and
15 these instructions as to the law, and you are obliged under
16 your oath as jurors to follow the law as I have instructed you,
17 whether you agree or disagree with the particular law in
18 question.

19 The verdict must represent the considered judgment of
20 each juror. In order to return a verdict, it is necessary that
21 each juror agree to it. Your verdict must be unanimous.

22 Let me also remind you that you took an oath to decide
23 this case impartially, fairly, without prejudice or sympathy,
24 and without fear, solely based on the evidence in the case and
25 the applicable law.

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1 You have been chosen to try issues of fact and reach a
2 verdict on the basis of the evidence or lack of evidence. Both
3 sides are entitled to a fair trial. You are to make a fair and
4 impartial decision so that you come to a just verdict.

5 Let me give you a few instructions about your
6 deliberations before I meet with the lawyers for a moment.

7 First of all, all of the exhibits will be given to you
8 near the start of your deliberations. That includes the audio
9 and video recordings and the computer spreadsheets that have
10 been admitted into evidence, all of which have been loaded onto
11 a flash drive, or more than one flash drive.

12 If you prefer to listen to or view any evidence here
13 in the courtroom, you can request that. If you want any of the
14 testimony read back to you, you may also request that. If you
15 want testimony read back to you, please try to be as specific
16 as you possibly can in requesting portions of the testimony,
17 because the court reporter will have to look through the
18 transcript, and the parties will have to agree on what portions
19 of the testimony may be called for in response to your request,
20 and if they disagree, I must resolve those disagreements.

21 Your requests for exhibits or testimony—in fact any
22 communications with the Court—should be made to me in writing,
23 signed by your foreperson, and given to one of the Marshals.
24 In any event, do not tell me or anyone else how the jury stands
25 on any issue until after a unanimous verdict is reached.

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If any one of you took notes during the course of the trial, you should not show your notes to, or discuss your notes with, any other jurors during your deliberations. Any notes you have taken are to be used solely to assist you. The fact that a particular juror has taken notes entitles that juror's views to no greater weight than those of any other juror. Finally, your notes are not to substitute for your recollection of the evidence in the case. If, during your deliberations, you have any doubt as to any of the testimony, you may—as I just told you—request that the official trial transcript that has been made of these proceedings be read back to you.

You will soon retire to decide the case. Your function is to weigh the evidence in this case and to determine the guilt or lack of guilt of the defendant with respect to each count charged in the indictment. You must base your verdict solely on the evidence and these instructions as to the law, and you are obliged on your oath as jurors to follow the law as I instruct you, whether you agree or disagree with the particular law in question.

It is your duty as jurors to consult with one another and to deliberate with a view to reaching an agreement. Each of you must decide the case for himself or herself, but you should do so only after a consideration of the case with your fellow jurors, and you should not hesitate to change an opinion when convinced that it is erroneous. Discuss and weigh your

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1 respective opinions dispassionately, without regard to
2 sympathy, without regard to prejudice or favor for either
3 party, and follow my instructions on the law.

4 When you are deliberating, all 12 jurors must be
5 present in the jury room. If a juror is absent, you must stop
6 deliberations.

7 Again, your verdict must be unanimous, but you are not
8 bound to surrender your honest convictions concerning the
9 effect or weight of the evidence for the mere purpose of
10 returning a verdict or solely because of the opinion of other
11 jurors. Each of you must make your own decision about the
12 proper outcome of this case based on your consideration of the
13 evidence and your discussions with your fellow jurors. No
14 juror should surrender his or her conscientious beliefs solely
15 for the purpose of returning a unanimous verdict.

16 Remember, at all times, you are not partisans. You
17 are judges-judges of the facts. Your sole interest is to seek
18 the truth from the evidence in the case.

19 If you are divided, do not report how the vote stands.
20 If you reach a verdict, do not report what it is until you are
21 asked in open court.

22 I have prepared a verdict form for you to use in
23 guiding your deliberation and recording your decision. Please
24 use that form to report your verdict.

25 The first thing you should do when you retire to

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1 deliberate is to take a vote to select one of you to sit as
2 your foreperson, and then send out a note indicating whom you
3 have chosen.

4 The foreperson doesn't have any more power or
5 authority than any other juror, and his or her vote or opinion
6 doesn't count for any more than any other juror's vote or
7 opinion. The foreperson is merely your spokesperson to the
8 Court. He or she will send out any notes, and when the jury
9 has reached a verdict, he or she will notify the marshal that
10 the jury has reached a verdict, and you will come into open
11 court and give the verdict.

12 After you have reached a verdict, your foreperson will
13 fill in and date the form that has been given to you. All
14 jurors must sign the form reflecting each juror's agreement
15 with the verdict. The foreperson should then advise the
16 marshal outside your door that you are ready to return to the
17 courtroom.

18 I will stress that each of you must be in agreement
19 with the verdict which is announced in court. Once your
20 verdict is announced by your foreperson in open court and
21 officially recorded, it cannot ordinarily be revoked.

22 In conclusion, ladies and gentlemen, I am sure that if
23 you listen to the views of your fellow jurors and if you apply
24 your own common sense, you will reach a fair verdict here.

25 Let me now meet with counsel.

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1 (At the sidebar)

2 THE COURT: Any objections from the government?

3 MS. KEENAN: Judge, I just noticed that at this point
4 you said "reckless" instead of "deliberate." It's page 47. I
5 think you might have intended to say "reckless" and maybe it's
6 mistyped here.

7 THE COURT: Let me look at that. We're looking at
8 page 47 of the charge.

9 MS. KEENAN: Seems like my page 47 is different from
10 your page 47.

11 It's discussing element two.

12 THE COURT: Yes, I see it. And I said "reckless."

13 MS. KEENAN: "Reckless," yes.

14 THE COURT: So we can correct that in terms of --
15 well, let me see what the defense says. Do you have a position
16 with respect to --

17 MS. KEENAN: I think it should be "deliberate."

18 THE COURT: It should be "deliberate," and I said
19 "reckless."

20 MR. KELLY: And I'm not seeing what everyone is
21 pointing out, so can we --

22 MS. GLASHAUSSER: I noted it as well.

23 MR. KELLY: Okay. Then no objection, right?

24 MS. GLASHAUSSER: Just correcting it in writing when
25 it goes back? Yes, that's fine.

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1 MS. KEENAN: And then, your Honor, on the next page, I
2 think you said -- if the instructions are going back, it says
3 fraud.

4 THE COURT: I agree with that. I did not read fraud.

5 MR. KELLY: Correct.

6 THE COURT: There were a couple of typos that I
7 caught. So we'll send you a blackline version of what will go
8 to the jury. Mr. Kelly, anything? Your objections are
9 preserved.

10 MS. SASSOON: I have one more thing.

11 THE COURT: Sorry.

12 MS. SASSOON: This is right before the special
13 sentencing factor. In my version it's 72. So it's right
14 before we get to Count Two and right before the special
15 sentencing factor. So we didn't raise this objection before,
16 but it currently says, "You must be unanimous as to which two
17 or more such predicate acts you find they agreed to commit." I
18 think that potentially suggests that if there's a juror who
19 thinks there are more than two, they would have to be unanimous
20 about that. So we would suggest in the written version that
21 goes back to the jury it say something like, "At a minimum, you
22 must be unanimous as to two of the predicate acts you find they
23 agreed to commit."

24 THE COURT: Any objection to that?

25 MS. LENOX: I don't think it's confusing as written,

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1 but --

2 THE COURT: Let me think about it in terms of what
3 goes back.

4 MR. KELLY: Is that all? Does the government have any
5 more?

6 MS. SASSOON: No.

7 MR. KELLY: I would just note, I wanted to be clear as
8 to why the Court read the theory of the defense only within the
9 tax counts and then moved on to the VCAR accounts.

10 THE COURT: Because it only applies to the tax counts.

11 MR. KELLY: Obviously we object to that. I just
12 wanted to note that on the record.

13 MS. GLASHAUSSER: We I think also understood, the way
14 it was written, our version of the charge, that it was going to
15 be read right before venue.

16 MR. KELLY: Right. After VCAR, before venue.

17 MS. GLASHAUSSER: As written here, after venue.

18 THE COURT: I don't know what significance that may
19 have, if this is reviewed up above, but just so the record is
20 clear, what we passed out to the government and the defendant
21 made it clear up top where this would be read and made the
22 language clear. If you have an objection, your objection is
23 preserved.

24 MS. SASSOON: Is there any defense contention that
25 this was relevant to the VCAR, the one charge that came after?

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1 MS. GLASHAUSSER: Our contention is that our theory of
2 the defense was relevant to all the charges and should have
3 been read after the charges, which is where the place holder
4 was in the charge, and I guess what we would ask is that it be
5 placed there in the written version that's going back to the
6 jury.

7 THE COURT: I already ruled; and the second, I don't
8 think it is relevant to the other charges, but this was the
9 subject of the charging conference. So you've got your
10 objection. I'm not going to move its placement.

11 MS. GLASHAUSSER: I understand, but just so the record
12 is clear, the charging conference, we understood it was going
13 to be placed after the other charges. But logically, in the
14 charge itself, the placeholder for the theory of the defense
15 was after the charges.

16 THE COURT: I will put it on the docket, but the
17 charge that I handed out said, up top, this was to be placed
18 before VCAR.

19 Okay. So what I'm going to do is I'm going to excuse
20 the alternates and tell the members of the jury they can retire
21 and then they can decide what they're going to do.

22 (In open court)

23 THE COURT: You may all be seated.

24 So, that concludes my charge. Before the jurors
25 retire into the jury room, I must excuse our alternate, who is

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1 Juror No. 13, with the thanks of the Court. Juror No. 13, you
2 have been very attentive and very patient. I'm sorry that
3 you're going to miss the experience of deliberating with the
4 jury, but the law provides for a jury of 12 persons in this
5 case. So before the rest of the jury retires into the jury
6 room, if you have any clothing or objects there, you are asked
7 to pick them up and to withdraw before any deliberations begin.
8 So you may, Juror No. 13, leave now.

9 Please do not discuss the case with anyone or research
10 the case over the next few days, Juror No. 13. It is
11 possible -- and I have had this occur in a trial -- that
12 unexpected developments, such as a juror's serious illness, may
13 require the substitution of a deliberating juror by an
14 alternate. And so it's vital that you not speak to anyone
15 about the case or research the case until you have been
16 notified that the jury's deliberations are over and the jury
17 has been excused. And if you would like to be advised of the
18 outcome of the trial, please make sure that Mr. Fishman has a
19 phone number at which you can be reached.

20 (Alternate excused)

21 THE COURT: And now, members of the jury, you may now
22 retire to begin your deliberations. The Marshal will be sworn
23 before you retire, by my deputy.

24 (Marshal sworn)

25 THE COURT: Members of the jury, you may now retire.

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1 Everybody, please stand for the jury.

2 THE DEPUTY CLERK: All rise.

3 (At 4:16 p.m., the jury retired to deliberate)

4 THE COURT: Be seated.

5 I will note for the record that during my charge,
6 there have been the fewest people in this courtroom than the
7 courtroom has seen in the last four weeks, and I take no
8 offense at that.

9 I think we've got an approved verdict form, so we'll
10 get that to the jurors. And overnight we will get you a
11 blackline of the jury charge with some of the typos that we
12 caught. I would ask the parties to let us know by email
13 whether they've got any objections to the typos that we've
14 caught or any of those changes, and we can put those objections
15 on the docket.

16 You should all make sure that you're close to the
17 courthouse tomorrow morning.

18 Is there anything else from the government that we
19 should discuss?

20 MS. SASSOON: I just want to confirm that we're
21 sticking with the 9 a.m. schedule?

22 THE COURT: Yes.

23 MS. SASSOON: And can you provide your deputy our
24 cellphone numbers in the event of juror notes?

25 THE COURT: Can you do what?

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1 MS. SASSOON: In the event of juror notes, would the
2 Court like to communicate with us by cell or by email?

3 THE COURT: I mean, what's the quickest way to reach
4 you all?

5 MS. SASSOON: Cellphone.

6 THE COURT: Okay. Then just make sure that
7 Mr. Fishman has your cellphones.

8 Is that the same, Ms. Lenox, for the defense?

9 MS. LENOX: Yes. I'm sorry. My voice is going.

10 THE COURT: I understand. Mine too.

11 Ms. Glashausser, is that okay for cellphones?

12 MS. GLASHAUSSER: Yes, your Honor.

13 THE COURT: Just make sure that Mr. Fishman has your
14 cellphone. He's left, so just email the cellphone numbers.

15 Is there anything else, Ms. Glashausser or Mr. Kelly?
16 I've not called on you, Ms. Lenox.

17 MS. GLASHAUSSER: No, your Honor.

18 MS. SASSOON: I'm a little confused as to the
19 procedure now. Is the jury dismissed or are they selecting a
20 foreperson?

21 THE COURT: I think they're selecting a foreperson and
22 they're going to figure out when they're done deliberating for
23 the day, right? It's going to be up to them. Okay.

24 (Recess pending verdict, 4:19 p.m.)

25 (Adjourned to April 6, 2022, 9:00 a.m.)